The Crime and the Criminal

A PSYCHIATRIC STUDY

OF THE LINDBERGH CASE

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TYPOGRAPHY BY ROBERT JOSEPHY
MANUFACTURED IN THE UNITED STATES OF AMERICA
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This book is dedicated to the work that has been done and will be done to hasten the inevitable realization that crime is a symptom of illness, and that psychiatry has a place in the administration of criminal law.

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THE CRIME AND THE CRIMINAL

Introduction

The demands of modern civilization and society have been fulfilled by the execution of Bruno Richard Hauptmann for the murder of Charles Augustus Lindbergh, Jr. Justice has had its day in court and a murder has been avenged. Those engaged in the administration of law can sit back and, with an air of complete satisfaction, state that the case is closed, that the crime has been solved, that the criminal has been punished in such a manner as to act as a deterrent to others who may contemplate committing a similar offense.

However, in this case, I am of the opinion that a greater issue was involved. An atrocious crime was committed. But just how it was committed, why it was committed, and how in this age a lone man could successfully arraign his sole powers against well-organized police forces for so long a period of time, still remains unanswered. The solution of such questions would have been a greater contribution to the understanding of crime than the mere execution of a criminal.

With the case marked closed, no more is known about the actual facts in the commission of the crime, or the personality of the man executed, than was outlined in theoretical deductions about the crime and the criminal made a few months after the baby was kidnaped. During his stay in the Bronx and in New Jersey, two psychiatric examinations were made of Hauptmann by qualified men. But these examinations were conducted under conditions which, circumscribed by the strict legal requirements, were from a medical point of view unorthodox. In fact, such an examination of a patient in private practice would have caused the conclusions to be totally disregarded and perhaps condemned.

The ideal procedure, and what will some day inevitably be the practice, would be the elimination of psychiatry as part of court procedure. Law will function along strictly legal lines and the

question of the guilt or innocence of the defendant will be determined on a basis of fact. Then, after conviction and prior to sentence, when the coöperation of the prisoner is possible and time is unlimited, a psychiatric examination will be made. Psychiatry will have nothing to do with determining the prisoner's legal guilt, but will, with the aid of sociology and penology, evaluate the motives of the crime and the mental make-up of the criminal. This is in harmony with the progressive suggestion made by ex-Governor Alfred E. Smith, that the sentence of a man be postponed until his personality has been studied.

At the present time, the law in the majority of the States has limited the concept of "insanity" (a legal term which has been discarded by the medical profession) to the question: Does the person under examination know the difference between right and wrong? This strict limitation of "insanity" had its origin in English law in 1843. It is a sad commentary on the progress of law that it has not made any advance in the understanding or acceptance of psychiatry in nearly a century; and this is especially shocking since it is in this past century that the greatest advances in psychiatry have taken place. Psychiatry has been dynamic and law has been static.

The absurdity is more glaring in that a psychiatrist, examined as to his qualifications as an expert, is asked questions for the purpose of determining his knowledge of present-day psychiatry, not the theories maintained one hundred years ago. When examining his patient he is using the knowledge we now possess of mental illness, and it is upon present-day theories that he is able to come to a conclusion. It is in the court procedure that the paradox becomes apparent, when, after he is ready to report his findings, he is asked a question which implies, "Now, Doctor, although we were interested in whether you knew present-day psychiatry, you must now forget it. Will you please answer this question: According to the code existing in 1843, is he sane or insane?"

The world is under the impression that psychiatrists differ in giving expert testimony. A careful survey of thousands of cases has revealed that in nearly all instances they have agreed that the defendant under discussion is mentally ill. The difference of opinion is on the legal formulation, not the medical.

The legal interpretation that the test for insanity is the ability of a person to know the difference between right and wrong must some day be abandoned. Nearly all insane people know the difference between right and wrong. Some States have already realized that the test is not whether the individual knows right from wrong but whether he possesses enough will power to prevent him from doing the wrong. They have retained the 1843 concept, but have added to it the question of "irresistible impulse." This is a decidedly progressive step, in harmony with the advances made by medicine. The doctor, however, is still called upon to enter into a discussion which is strictly legal, and so loses his identity as a physician.

The fact that the law, while using psychiatry, refuses to profit by what psychiatry has to offer, is best illustrated in the recent convictions and executions of men who were known to be actually medically "insane" and as such to have been patients in institutions for the mentally ill, but who were nevertheless proved "sane" by law.

Psychiatry may become of great value in the determination of the punishment or treatment of a convicted individual. Crime, no matter whether recognized as a symptom of illness or not, is behavior; and psychiatry, the branch of medicine which pertains to mental diseases, incorporates human behavior in its field of study. The individual guilty of asocial behavior must be adequately punished by law. There is no difference of opinion that punishment must serve a twofold purpose: protection of society and the possible correction of asocial tendencies on the part of the criminal. If one adheres to the theory that crime is a symptom of mental illness, it is unbelievable that punishment alone will cure the ailment. Psychiatry must determine what the cure shall be.

In the not very distant past, a mentally ill person was treated as a criminal. He was held responsible, incurable, was incarcerated and forgotten by society. Today society accepts its responsibilities, and with the knowledge gained, has instituted an intelligent, progressive procedure. This has resulted in humane care, with the reward of cure in cases originally thought to be hopeless.

Contagious diseases have been the cause of more deaths and illness, and a greater burden to society, than any other known cause: one typhoid carrier may be guilty of more deaths than any

murderer. We have instituted intelligent methods today whereby the ill person, the potential menace to society, is not held responsible for his illness but is isolated and treated until such time as he can once again take his place in the community. It is only by the application of these same medical principles that the illness of which crime is a symptom will be determined and its incidence reduced.

Psychiatry can also, if given the opportunity for more research, offer aid to the police in the solution of crime. A knowledge of psychopathology will, in the future, be used in evaluating the facts pertaining to a crime, which will allow the deduction that the crime was committed by a person with a certain "mental make-up." It will also be able to postulate motives not readily discernible in the commission of the crime.

It was my faith in these premises that caused me to undertake an analysis of the Lindbergh crime. The original theoretical deductions as to the personality of the kidnaper and the motive for his crime are presented in this book, and an attempt made to correlate them with the limited information available about Hauptmann after his arrest and during his trial.

The acceptance of my report on the case proves the possibility of a better comprehension of psychiatry on the part of law and police authorities, and it is hoped that the psychiatric deduction for the first time attempted in the solution of a crime will open up a new field in criminology.

Also included in the book is a condensed version of the trial. While many persons followed the trial in the Press and read every printed word of the testimony, it was usually in connection with other matter—comments on the testimony of the day and predictions of what was to follow. This was bound to create confusion in any mind, and I have observed that it did so, even in the minds of otherwise clear thinkers. The trial took over a month, and unless a person limited himself to read the testimony only, and in its exact sequence, it was practically impossible, in a retrospective mental summary, not to encounter a haze as to parts of it.

I therefore decided to offer a synopsis of the entire trial from the opening addresses to the end of the Judge's charge. The actual transcripts involved about a million and a half words; in printed form, for review purposes, they fill twelve books with a total of

4,921 pages. In making up this synopsis my efforts have been: first, to reduce it to what I thought was relevant material without losing a sentence, or even a word, that would affect the intended meaning of the testimony; secondly, to place it before the reader in narrative form, eliminating much phraseology and legal argument that naturally encumbered the verbatim story. Another reason for the inclusion of testimony is to offer some of my own observations, according to notes made at the trial. These observations have naturally a background of psychiatric analysis of action and reaction and are in no wise to be considered from a legalistic viewpoint.

It is my aim to make available in a single volume a record of all essential facts associated with the kidnaping of Charles A. Lindbergh, Jr., and the trial of Bruno Richard Hauptmann.

D. D. S.

New York, June 10th, 1936.

I. A CRIME WAS COMMITTED

Charles Augustus Lindbergh, Jr., twenty-months-old son of Colonel Charles Augustus Lindbergh and Anne Morrow Lindbergh, was kidnaped between eight and ten o'clock on the evening of March 1st, 1932, from his nursery in Hopewell, New Jersey. The Colonel's choice of Hopewell for his home had been governed by a desire to secure a quiet, inaccessible retreat from the prying curiosity of the American public, whose adulation caused him embarrassment and annoyance. Protected by the Sourland Mountains, an unfriendly range of high hills in a desolate area, his estate stood alone amid hundreds of acres of wooded land, part of which had been cleared for a landing field. It was bitter irony that from this home, so carefully planned as a peaceful refuge, the first child of the famous couple should have been kidnaped.

Charles Lindbergh's epic solo flight from Roosevelt Field in New York to Le Bourget, Paris, on May 20th, 1927, had aroused the world to extraordinary enthusiasm. Subsequent flights brought further acclaim. His skill and daring, coupled with boyish reticence and modesty, intrigued public imagination, and he rapidly became established as a legendary figure whose exploits were watched by millions with awe and admiration. The courtship and subsequent marriage of this boy from an unpretentious background to Anne Spencer Morrow, daughter of Dwight W. Morrow, distinguished financier, one-time Ambassador to Mexico and later United States Senator from New Jersey, was long a topic of public interest. Anne Morrow, known for her shyness and reserve, was warmly accepted as the perfect mate for the Lone Eagle.

Another factor essential to an understanding of the unique position which Lindbergh held in the emotional life of the people was the absence of apparent family ties. He was an only child whose father was dead and whose mother remained in the background when he achieved fame. He seemed an orphan, an ideal subject for

adoption by a nation as its favorite son. By older men and women he was regarded as a foster-child. He crystallized the children's dreams of conquest. To his own generation, he was, according to individual mental make-up, someone to love as a brother or someone of whom to be jealous—though his solitary flight, a victory over the hazards of nature, was an achievement that precluded feelings of jealousy or rivalry on the part of the average man.

The immediate reaction of horror, therefore, when the public learned of the kidnaping of the Lindbergh child, gave way to an intense feeling of individual and personal affront at this crime against the adored citizen of the world.

Colonel Lindbergh, informed by the baby's nurse that the child was missing, immediately ran to the nursery. An open window, an envelope on the window sill, footprints on the floor between the window and the empty crib, brought the immediate harrowing realization that his child had been kidnaped. The Colonel ordered his butler to telephone the Hopewell police.

On the morning of March 2nd, the newspapers reported that the Lindbergh child had been kidnaped and was being held for $50,000. They also contained the startling but meager information that a three-section ladder and a chisel were found on the estate, and that the southeast nursery window and the ground beneath it indicated that the child was removed by way of this ladder. A ransom note, the content of which was not revealed, was found on the window sill. Throughout that day and for many days thereafter, no further authentic information was divulged. Pacifying reports from various officials offered hope that the child was alive and would be shortly returned and that negotiations were progressing satisfactorily. With such paucity of facts, an outraged public was not satisfied, and thus newspaper reporters, under pressure from harassed editors who demanded "news" and more "news" to feed insatiable readers, made much of the rumors and legends concerning the wildness of the Sourland Mountain region. They took refuge in biographies of the Lindberghs, the crime problem in the United States, the history of kidnaping and their theories about the crime; but real news remained scarce amid pages of feature articles.

In Hopewell, the arrival of numerous representatives of the different law-enforcement agencies created confusion which was accentuated by the appearance of hundreds of reporters and thousands of the morbidly curious. The Lindberghs, after a conference with Colonel Henry C. Breckinridge a day or two later, ameliorated the confusion by placing full authority in the hands of Colonel H. Norman Schwarzkopf, head of the New Jersey State Police. Reporters and curious onlookers were thereafter kept at a distance from the house.

Plans were then devised by the Lindberghs for negotiations for the return of the child. The ransom note in the nursery not only reported the kidnaping and demanded $50,000 for the baby's return but instructed the family not to inform the police "or make anything public." It was natural that the parents should be fearful of violating these orders. The kidnapers promised further communication within four days. The Lindberghs, via newspapers and radio, now anxiously conveyed assurance to the kidnapers that they were less interested in their apprehension than in the health and safe return of the child. Fearful that the publicity would make it impossible for the kidnapers to negotiate with them, the Lindberghs planned to go to the kidnapers. On the theory that the crime was committed by organized members of the underworld, they employed Morris Rosner, supposedly cognizant of all underworld schemes. He in turn called in Salvatore Spitale and Irving Bitz, petty by-products of the bootlegging era, who were said by Rosner to possess the necessary diplomatic technique for negotiating with criminals. What they did will never really be known, but what they said they were going to do was heralded in the Press. This publicity, supposing the original premise correct, could only have hindered any transactions they might otherwise have had with the underworld. The police, critical of their participation, could not dissuade the Colonel, who was really in charge.

Approximately four days later, unknown to the public, Colonel Lindbergh heard from the kidnapers. His previous alarms were confirmed by their reference to public excitement and police activities which made ransom arrangements impossible; yet hearing from them was something and his anxiety was somewhat alleviated. The kidnapers also revealed their uneasiness by communicating with Colonel Breckinridge.

The next few days were uneventful, but on March 7th, Dr. John F. Condon, an elderly educator in the Bronx, on his own initiative wrote a letter to the *Bronx Home News,* which was published on March 8th in the following form: [1]

DR. JOHN F. CONDON MAKES OFFER OF $1,000 TO KIDNAPERS FOR RETURN OF LINDBERGH BABY

An offer to act as "go-between" in negotiations for the return of 20-months-old Charles Augustus Lindbergh, Jr., with the promise of absolute secrecy as to the identity of the kidnapers and an additional $1,000 to any ransom which may be arranged by Col. Charles A. Lindbergh, was made today by Dr. John F. Condon, 2974 Decatur Ave., near 201st St., educator, author and lecturer.

The added ransom represents the major portion of Dr. Condon's savings, yet he asserted that he is willing to part with it in order to restore the child to his anguished parents.

In his appeal to the abductors, Dr. Condon said, "I offer all that I can scrape together so that a loving mother may again have her child and that Col. Lindbergh may know that the American people are grateful for the honor that he bestowed upon them by his pluck and daring.

Promises Utmost Secrecy

"Let the kidnapers know that no testimony of mine, or information coming from me will be used against them.

"I offer $1,000 which I have saved from my salary as additional to the suggested ransom of $50,000 which is said to have been demanded of Col. Lindbergh.

"I stand ready at my own expense to go anywhere alone, to give the kidnaper the extra money and promise never to utter his name to any person.

"If this is not agreeable, then I ask the kidnapers to go to any Catholic priest and return the child unharmed, with the knowledge that any priest must hold inviolate any statement which may be made by the kidnapers."

Dr. Condon is one of the best known educators of the Bronx.

He retired in 1930 after serving for 46 years as a school teacher and since then has devoted much of his time to giving lectures at Fordham University.

[1] The entire letter was not published.

In offering to act as "go-between" in negotiations for the return of the Lindbergh baby, Dr. Condon said that he was doing so on his own initiative and would be responsible to no person for information which he might obtain from the abductors.

Dr. Condon received a reply on March 9th, offering to accept him as a go-between in ransom negotiations and, if he were willing, he was to deliver an inclosed letter to Colonel Lindbergh. Dr. Condon promptly delivered the note which, after comparison with the first one, was admitted to be authentic. At a conference that same evening, Dr. Condon was approved as go-between by Colonel Lindbergh and by Colonel Breckinridge, who had accepted Dr. Condon's invitation to live at his home during the arrangements. It was also agreed that Dr. Condon, in negotiations with the kidnapers, should use the combination of his initials, J. F. C., which when quickly pronounced formed the word "Jafsie."

The kidnapers' further communication with Dr. Condon resulted in an hour's meeting between the doctor and a man who identified himself as "John," and said he represented the kidnapers. As definite proof of his official capacity, he agreed to send to the doctor the sleeping suit worn by the baby the night it was kidnaped. A few days later this arrived and was specifically identified as the garment belonging to the baby. Negotiations continued between Dr. Condon and "John" through personal notices in the newspapers. The world at large suspected that these notices referred to the Lindbergh kidnaping, but was unaware of the identity of "Jafsie." The negotiations were prolonged owing to the kidnapers' evident anxiety, which was attributed to fear of detection.

However, on April 2nd, all arrangements were made for the payment of money to "John" for the return of the child. "John" informed "Jafsie" that because of the difficulties encountered in caring for the child, the original ransom sum was to be increased to $70,000. On that evening, therefore, according to instructions from the kidnaper, Dr. Condon and Colonel Lindbergh proceeded to St. Raymond's Cemetery in the Bronx with a box containing $70,000. Dr. Condon met "John" at the cemetery, and a little distance away the Colonel was seated in an automobile with the money. Having persuaded the kidnaper to reduce the ransom to

the original sum of $50,000, the doctor returned to the Colonel for the money. Then Dr. Condon went back to "John," gave him the money and received a note containing instructions for finding the baby. Contrary to expectations, the child was not recovered, and a few days later a hopeful world was shocked at the announcement of complete failure. The emergence of Dr. Condon's participation, with the recital of what took place between March 1st and April 2nd, evoked further journalistic activity, and a distorted biography of the aged educator became public knowledge.

Coincident with the Bronx negotiations, Gaston B. Means, whose notorious career had been interrupted occasionally by various prison terms, approached Mrs. Evalyn Walsh McLean, a well-known Washington social leader, early in March, 1932, with the promise that he could secure the return of the Lindbergh child through his extensive underworld acquaintance. Mrs. McLean, deeply shocked by the crime, and especially touched by it since her own son had been killed accidentally while being guarded from threatened kidnaping, gave Means $104,000 to aid his search. With the announcement of the failure of Dr. Condon's negotiations, despite the payment of $50,000, Mrs. McLean became suspicious and filed charges against Means, who was convicted of larceny and imprisoned.

Meanwhile Colonel Lindbergh, though concentrating on the transaction with "John," had also started half-hearted negotiations with John Hughes Curtis, shipbuilder of Norfolk, Virginia, backed up by two reputable members of his community: the Very Reverend H. Dobson-Peacock, Dean of Christ Episcopal Church of Norfolk, who had met the late Senator Morrow in Mexico, and Rear-Admiral Guy Burrage of the United States Navy (retired) who had commanded the ship on which Colonel Lindbergh returned to the United States after his epic flight to Paris. Curtis maintained that he had been approached by the kidnapers and had seen the ransom money, and he offered to act as a go-between.

On March 22nd, these three had an interview with the Colonel, and although factual proof of Curtis' contention was lacking, the reputations of the minister and admiral were such that the Colonel —the wish being, perhaps, father to the thought—tended to believe it. He did not, however, accept Curtis until the failure of April 2nd gave impetus to his faith in Curtis' theory. The bizarre story,

that the child was on a boat in Chesapeake Bay outside of Norfolk, Virginia, was now believed by Colonel Lindbergh, and he spent weeks on boats sailing up Chesapeake Bay at the direction of Curtis, on the lookout for the signal which, supposedly, would reveal the boat on which the child was being held. While the Colonel was on this expedition, the United States Government was in readiness to offer its fleet to aid in searching the waters. On May 12th, 1932, the Colonel and the world were shocked by another blaring announcement: Charles A. Lindbergh, Jr.'s body was found in a shallow grave within five miles of the Lindbergh home and identified by the police and by Betty Gow, the child's nurse. Colonel Lindbergh, returning from his fruitless search, identified his child the following day.

Curtis was brought to trial in Flemington at the Hunterdon Courthouse, charged with obstructing justice, and on this charge he was found guilty, but the jurors recommended mercy. The legal construction of this conviction carried with it the implication that Curtis actually dealt with the kidnapers, although the testimony of important witnesses, including Colonel Lindbergh, indicated that he had at no time any dealings with the kidnapers. In the archives of the courts of New Jersey, nevertheless, there is the legal record of the conviction of John Hughes Curtis for having knowledge of the kidnapers of Charles A. Lindbergh, Jr.

Until May 12th, police detection was held in abeyance because the primary issue was the safe return of the child. Knowledge of the child's death now destroyed the need for precaution, and police activities were fully extended to the tracking down of all possible clues. The Hopewell police, first notified of the crime, was superseded by the New Jersey State Police. Within the first four days, the Federal Bureau of Investigation, United States Department of Justice, Bureau of Internal Revenue of the United States Treasury Department and the New York City Police Department were called in and offered their services. To overcome the resultant confusion, Colonel H. Norman Schwarzkopf was given sole charge. Actually, however, Colonel Lindbergh, advised by Colonel Breckinridge, completely dominated all police work. The New York police, not extended full confidence, retired from the scene. The others remained and agreed to restrict their activities to the prescribed regu-

lations. Despite the Federal Bureau of Investigation's record of achievement, the little pertinent information possessed by the New Jersey State Police was not completely turned over to it. The New York City police was only slightly more informed than the public, although ransom letters bore New York postmarks and ransom negotiations and Dr. Condon's conferences with "John" were held in New York, making it reasonable to suppose that the criminals lived there.

At no time during this period of watchful waiting were any joint conferences held by these four units to pool their efforts toward an analysis of the crime. At no time was there any discussion of the possibility of coöperatively organized procedure, providing the child were safely recovered, for the detection and apprehension of the criminals. Only on rare occasions during ransom negotiations, when clues overlapped, were some slight attempts at evaluation and coördination made. This lack of joint action may be illustrated by the fact that the original ransom communication was neither shown nor its content revealed to the coöperating agencies until later, and then only to Federal groups. When Colonel Schwarzkopf, after the suspect was arrested, answered criticisms directed against the inefficiency of his unit, he took refuge in the excuse that his force was undermanned, ignoring completely the fact that valuable service was offered by outstanding police authorities in the nation.

After May 12th, unhampered by the restraint previously enforced pending the hoped-for return of the child, the various agencies came into open conflict over orders felt to be unwise, and each unit went its separate way. Thus the discussion of the aspects of detection must be taken up individually, except where clues overran the boundaries set by these groups.

All police agencies adhered tenaciously to the theory that the child was kidnaped by a gang and refused vehemently to entertain another concept. That theory was diligently pursued and criminal bands throughout the country were investigated for news of the kidnapers. A reward of $100,000 was offered by a group of outstanding bootleggers for the return of the child alive, because they wished to rid themselves of the prying police and safeguard their own activities. News of it was not published, but was sent through underworld channels; nothing resulted. The working premise that

the crime was committed by a gang was logically pursued. Considered in relationship to it, the method of investigation really did not warrant the considerable comment directed against it. Criticism should rather be directed against the premise.

New Jersey State Police

The New Jersey State Police, on the scene shortly after the child was reported missing, made a routine examination of the grounds and the house. That night the ladder, the chisel, the nursery and its contents were fingerprinted twice without revealing any readable prints. This failure to secure fingerprints aroused in the State Police no suspicion either of the method employed, or of the qualifications of its expert. If it had at that time availed itself of the facilities of other police agencies, subsequent embarrassing situations would have been avoided. Neither the ladder nor a footprint found under the southeast nursery window were subjected to scientific experiment. The ladder was tested only to confirm the fact that but two of the three sections had been used to reach the nursery window from which the child was removed and that it could not sustain a weight greater than approximately one hundred and eighty-five pounds. A cast of the footprint was not secured. The members of the household were not closely questioned.

A day or so later, Governor A. Harry Moore called a conference and directed that the Jersey City and Newark police assign detectives to the case, who were to take orders from Colonel Schwarzkopf. He was handicapped by the fact that Colonel Lindbergh was a famous man who chose to direct police activities and even started investigations of his own. Whether because of Colonel Lindbergh, or independently, cannot be determined, but the State Police conducted its inquiry on the premise that the crime was committed by a highly organized gang. Colonel Schwarzkopf adhered closely to the suggestion that, in order to safeguard the life of the child, no steps were to be taken for the apprehension of the criminals. This restriction placed the troopers in the rôles of estate guards and messenger boys. During this period, their main task was the sorting of crank clues.

Although the Jersey City detectives were active participants, they were not given the benefit of all the available information. They questioned the baby's nurse, the cook and the butler on the Lindbergh estate; they sought to determine a connection between the employees who had constructed the house and the kidnapers. From this extensive check-up, nothing of any value was forthcoming. Telephone calls made to and from Hopewell during the month before the crime were checked. Railroad stations, buses, taxis and airports were visited to ascertain whether anybody carrying a baby resembling the Lindbergh child was seen on March 1st. Homes within a five-mile radius of the Lindbergh estate were searched and troopers were instructed to be on the lookout for any lumber resembling that used in the kidnap ladder. The chisel found near the ladder was taken for identification to all hardware stores within a twenty-mile radius of the Lindbergh home. Paroled and escaped convicts and paroled or discharged insane asylum inmates were all thoroughly checked. But regardless of the detailed check-up, no clue emerged. During this interval, about 250,000 letters were received by the Lindberghs and each letter was read, classified and initialed by a trooper.

The Jersey City police held that the crime was an "inside job," helped by an "outside gang," whereas the State Police, dominated completely by Colonel Lindbergh and Colonel Breckinridge, strongly affirmed the idea of a highly organized gang, independent of "inside" aid. The State Police was informed of all the steps leading up to Dr. Condon's negotiations with "John." This information was not given to the Jersey City detectives, who were, however, told about John Hughes Curtis. They advised Colonel Lindbergh against accepting him as a go-between, but the Colonel disregarded them. The discovery of the child's body brought Curtis under suspicion of extortion, as his story of the kidnapers was now considered a bitter hoax. It was Inspector Harry W. Walsh of the Jersey City police who was largely responsible for "breaking" Curtis and securing a confession by a highly developed technique which consisted in part of taking his victim for a "walk."

After the failure of Condon's negotiations, members of the Lindbergh and Morrow household were again questioned thoroughly. Careers of those not born in the United States were traced to their native countries. At this time Violet Sharpe, an English maid in the Morrow household, came under suspicion because her story of her whereabouts on March 1st now differed from her previous statement to the police. After the child's body was found, her contradictions were brought before her and, according to the police, she showed signs of emotional and physical distress. Owing to her physical state, a rapid pulse and high temperature, physicians called by the police advised rest. When called for questioning the following day, she committed suicide by drinking potassium cyanide contained in a preparation for cleaning silver. Inspector Walsh, impressed with her physical and emotional condition, which to him indicated guilt, then concluded that she had aided the kidnapers. He said:

> She was the recipient of the phone call at 10:30 Tuesday, March 1st, that ordered Betty Gow to Hopewell. This gave her the knowledge that the baby would be in Hopewell that night. She told conflicting stories concerning her movements on the night of March 1st. She insistently refused to reveal the identity of the person she was with on March 1st.
>
> Her physical condition changed for the worse after it became known the baby was dead. I attribute this change to the workings of her conscience. I believe that previously she had been buoyed by the hope that the baby would be returned safely, she would get a cut of the ransom money and no one would be the wiser.
>
> She ended her life just before she was to be questioned again by the police, and as I believe, when she feared the screws of detection of her guilt were getting tighter and tighter.[1]

Violet Sharpe's reticence about her whereabouts on the evening of March 1st was due solely to the fact that she was being courted by the Morrow butler and was regarded by the household as a person of high moral integrity. If she had divulged her activities on that evening, she would have had to admit that a week prior to the crime she unconventionally met an adventurous gentleman and that she met him again the evening of the crime. Unwilling to cloud her reputation, in her perplexity she contradicted herself. Walsh, however, continued to believe in the adage that suicide is

[1] *Jersey Journal*, November 17th, 1932.

tantamount to a confession of guilt. Her participation in the crime not proved, New Jersey State Police became the target of bitter criticism from the American and English Press, which accused the police of venting chagrin for their failure on a poor English servant girl. The British Consulate, which investigated reports of alleged police brutality, was eventually satisfied that Violet had not been unjustly treated.

The other police agencies disagreed with the inspector's contention and there has never been the slightest proof that the English maid had either directly or indirectly anything to do with the kidnaping.

The State Police, considerably annoyed with the succession of merry-go-round clues which were not leading anywhere, now fastened vigorously upon Dr. John F. Condon. In the company of Detective Coar of the Jersey City police and Detective Leon of the New Jersey State Police, he was enticed by a ruse to Inspector Walsh's office in Alpine, New Jersey, where without any preliminaries he was asked to confess. He was not treated very graciously, but after four hours of questioning his story remained unshaken. The inspector, failing in this attack, decided to take the doctor for a "walk" along the Palisades, possibly hoping that this method might work as it did with Curtis.

Despite this "treatment" at the hands of Inspector Walsh, the doctor continued to extend his cooperation to the Jersey authorities. He continued to examine photographs, to attend line-ups in many cities, and remained in readiness, despite the inconvenience, to serve whenever called upon.

Early in the month of March, Dr. Erastus Mead Hudson, a New York physician who for years had been interested in fingerprinting, volunteered his services. Considering the usual technique of obtaining prints ineffective, he sponsored the use of a silver nitrate method, a chemical process which could reveal otherwise indiscernible fingerprints. The New Jersey State Police accepted his services only in part. He was allowed only to demonstrate his method on a small section of the ladder to a group of troopers who then, after observing his technique, processed the ladder themselves. That the State Police, when it had the advantage of Dr. Hudson's presence, should turn the work over to inexperienced troopers instead, was a procedure lacking in understanding, which prevented the possibility of discovering readable fingerprints. Sometime later, after a crime conference held by Governor Moore, at which the ladder was exhibited, Dr. Hudson himself was allowed to process the ladder; but because it had been handled by so many people at the conference, the numerous prints and smudges obtained were obviously of no value.

During the ransom negotiations, the ladder was subjected to numerous tests by Squire Johnson, Assistant Director of Construction, Department of Institutions and Agencies of New Jersey. Some dissatisfaction was felt with these tests by the police, who thought they lacked completeness, but it was not until June that the State Police became aware of Arthur Koehler's work in the tracing and analysis of lumber for the Federal Government.[2] The ladder was then sent to him for a thorough analysis.

Federal Aid

Apprised of the crime by Colonel Breckinridge, the Division of Investigation of the United States Department of Justice, under the leadership of J. Edgar Hoover, volunteered aid. Agents of that bureau were at the Lindbergh home throughout the Condon negotiations and were kept informed of the doctor's progress with "John." Upon investigation, they too concluded that the crime was committed by an organized gang. Special Agent Frank J. Wilson, in charge of the Intelligence Unit, Internal Revenue Bureau, United States Treasury Department, suggested and supervised the recording of the serial numbers of the ransom bills. The Federal agencies were also dominated by the belief that any attempt made to apprehend the perpetrators of the crime would endanger the child's life. They did, however, get in touch with notorious criminals and organized gangs throughout the country for knowledge leading to the kidnapers.

It is surprising that these experienced men should have clung so firmly to the theory that the crime was committed by an organized gang. Their own experience should have taught them that no gang

[2] See Koehler's testimony, pages 137, 244, 367.

would have undertaken so hazardous an enterprise for the ridiculous sum of $50,000. Their assumption was mocked at on their visits from gang to gang; they were told that, first, no gang would ever have kidnaped Lindbergh's baby and, secondly, if one had, the ransom demanded would have been much larger. The criminal gangs were only too eager to coöperate with Federal agents because their activities were being curtailed by incessant investigations. Al Capone, alleged to have been the head of one of the most highly organized gangs in the world, dropped a hint from his cell in the Cook County (Illinois) jail, that if he were released, he could get the baby, but his hints involved compromise with the Federal authorities and his offer was ignored. Some of his suggestions, nevertheless, were followed for months. When run down they proved of no significance.

On April 2nd, according to the testimony, Colonel Breckinridge and Federal agents, aware of the forthcoming negotiations, remained at Dr. Condon's home while Colonel Lindbergh and the doctor proceeded to follow out the kidnapers' instructions.

Governor Harold G. Hoffman of New Jersey told me that Dr. Condon and Colonel Lindbergh were followed, known or unknown to the Colonel, by Elmer L. Irey, Chief of the Internal Revenue Bureau, and Colonel Breckinridge, to St. Raymond's Cemetery. Their purpose was perhaps two-fold: they wished to guard Colonel Lindbergh and to check on Dr. Condon's rôle during the transfer of the ransom money. After the failure of that transaction, the Department of Justice agents actively pursued their theory that a gang had committed the crime.

On April 4th, Ralph Hacker, Dr. Condon's son-in-law, went to St. Raymond's Cemetery, accompanied by Dr. Condon, and took a plaster-cast impression of a footprint near a freshly made grave where the doctor had met "John" a few days before. This was done under the direction of Special Agent Thomas H. Sisk, Division of Investigation, United States Department of Justice. Just why Hacker, and not one of the department's experts, took the impression has never been cleared up.

At the announcement of the child's death, the Federal Government offered all the resources of the Department of Justice to aid in the hunt for the criminal. The Government was urged to pass laws making kidnaping a capital crime.

In November, 1932, at a conference at the Morrow home, I met Special Agent Wilson. After the conference we drove to New York together and on the way he informed me that he still adhered to the theory that the crime was committed by a gang, though he seemed sympathetic to my "lone man theory," and said that, so far, the fruitless investigation of his theory tended to confirm mine. Nevertheless, despite this admission, he continued in pursuit of a criminal gang. My concept he accepted sometime later.

Throughout their investigations, and despite their numerous activities, the Federal agencies played only a modest rôle. Toward the latter part of 1932, they worked in close harmony with the New York City police. With their coöperation as an example, New Jersey joined the alliance in 1933. By this time ransom bills were appearing in New York City, which was now accepted as the important base of action. The idea took root that the criminal or criminals lived in the city and all forces were represented in the tracing of ransom bills from the banks to the depositors.

New York City Police Department

Lieutenant James J. Finn of the New York City Police Department was the first member of that unit to go to Hopewell, at Colonel Lindbergh's request, sent through John Mahoney, builder of the *Spirit of St. Louis*.[1] Upon his arrival at the Lindbergh home, Finn's offer of New York City coöperation was not graciously accepted, despite his published statements to the contrary. He did not choose to limit himself to the city, but he had no alternative. The New York City Police Department was never informed of all the facts possessed by the New Jersey State Police and was not permitted to see either the original or photostatic copies of the ransom notes until they were sent to me for study.

Captain Richard Oliver, then Finn's immediate superior, entertained theories about the crime which differed from the others; these were not accepted. He was partially informed of the Condon

[1] The plane the Colonel used in his solo transatlantic flight.

ransom negotiations by the New Jersey State Police, but vital facts were withheld even from him. Captain Oliver felt that although the crime might have been committed by a gang, it was not one efficiently organized. Told of "John's" behavior at Woodlawn Cemetery during his first interview with Dr. Condon, he thought that it bore out his theory of a "cheap gang." His varied experience with gangsters would not allow him to conclude that "John" would have been the chosen delegate for so delicate a mission. Not officially informed of when and where the ransom money was to be paid "John," he discovered, by methods known to the police, that the transaction was to take place on April 2nd. On that evening, Police Commissioner Edward P. Mulrooney, acting under Federal orders, ruled that no detective was to be north of One Hundred and Twenty-fifth Street and Harlem River, so that Colonel Lindbergh and Dr. Condon would have the necessary freedom in dealing with the kidnapers. This order confirmed Oliver's information. Crystallizing his theory, he decided to surround the meeting place. He thought of two possibilities: Either "John" was the go-between for a "cheap gang" which was guilty of the crime, or he was a member of a "cheap gang" which obtained the ransom symbols and, though not guilty of the crime, might be guilty of extortion. If "John" were alone that evening, Oliver expected either to kidnap him or pretend to be a member of another gang and go with "John" to the kidnapers' hideout and declare himself a partner to the profits, a well-known procedure among criminals.

A few weeks before April 2nd, anticipating such a transaction and knowing he would not be included in it, Oliver definitely planned to handle the situation in his own way. He shadowed Dr. Condon's Bronx home that evening and when the Colonel left with the doctor, Oliver, dressed like a derelict, proceeded to follow in an old automobile. It was not long before the Colonel realized he was being followed, and the game of lose-me-if-you-can went on. The Colonel thought he won, but he was outsmarted by Oliver, who followed him directly to St. Raymond's Cemetery and saw Condon leave the Colonel. He now knew that money was to be passed and he watched some of Dr. Condon's movements. Then,

as he was about to enter the cemetery to carry out his plan, he was disturbed by conflicting thoughts:

"What if the baby is still alive? I think the child is dead and my theory of the crime correct. Still, I may be wrong. I have violated orders by my presence, I may jeopardize the baby's life and rather than do that, I might as well shoot myself now."

In the theoretical stage, Oliver was sure of his ground; faced with reality he became fearfully uncertain. On the one hand, he had the opportunity to become a great detective; on the other, he might not only be condemned to utter disgrace, but might cause the child's death. Beset by conflict and frightened by such responsibility, he quickly and quietly left the scene.

On April 9th, Colonel Lindbergh announced the failure of the ransom negotiations and revealed "Jafsie's" participation and his identity. Police activity was somewhat released from restraint. About April 11th, Leigh Matteson, Science Editor of the International News Service, informed Lieutenant Finn of my "lone man theory" and he immediately became interested. It was then that a definitely organized plan was devised by the New York City Police Department, and Lieutenant Finn was assigned to the case.

For the next two and a half years, Lieutenant Finn devoted all of his activities and thoughts toward the solution of the Lindbergh case. The New York City Police Department ran down all clues sent in from other agencies, plus their own, which eventually totaled 16,000. Although at this time Finn did not hold altogether to the theory of the gang, he still felt it wise not to exclude the idea of a professional criminal or criminals. This opinion led him far afield in the tracking down of criminals about whom he received spurious information.

After all of these so-called clues were dismissed, Finn believed that the passing of the ransom money, now in the possession of "John," would lead to his eventual discovery, and on this assumption he planned his strategy. He pursued a well-developed scheme to effect coöperation with the banks in New York City. His first attempt, owing to the complicated system of serial numbers first sent out by the Federal Government, was not very successful. Aware of the difficulty of handling the Federal pamphlet, he developed a more expedient way for listing the serial numbers of

the ransom bills. With this system in use, scattered reports of ransom bills began to come in.

By this method, he set about checking my "lone man theory." He was certain it was correct, and thought that the kidnaper would finally be caught in the act of passing a bill. He visited all the banks and urged their aid. He devised a scheme for the checking of bills in chain stores, whereby the clerk, in giving change, could check quickly and unobserved the serial numbers of the bills presented to him. He interviewed collectors for gas companies and urged them to be on the watch during their collections, for ransom bills. Ransom bills reported by banks were not easily traced to original depositors, and if traced, the depositors only occasionally could recall from whom they received the money. During all of these investigations of depositors, no mention of the Lindbergh case was made. Ostensibly, the police were searching for the passer of counterfeit bills. As the months progressed, from such scanty descriptions as came in, Finn was able to build a tentative picture of a man which began to bear a likeness to Dr. Condon's description of "John." He began to chart the appearance of the ransom bills on a map of New York City,[2] and there slowly evolved a chart of the kidnaper's trail in his passing of the bills. These appeared most frequently along the line of transit communications running north and south on the East Side of New York City.

All of the bills were folded straight through the center lengthwise and then through the center crosswise and once again crosswise, the double fold crosswise resulting in a very compact arrangement. This arrangement was used, I thought, so that when the kidnaper put his hand in his pocket, he could distinguish immediately between the ransom bills and his other money.

A microscopic examination of one of the five-dollar bills received revealed: "A pinkish substance which is apparently lipstick; blood; red and blue crayon; red marks apparently crayon; blue mark on face of bill apparently in crayon resembling Numeral 3 or 5; gold or brass dust particles."

Until November, 1932, although the thought of an organized

[2] Captain Oliver helped in developing the map and partly paid for it, but was never given credit for his contribution or reimbursed for his expenditure.

gang still prevailed among all other police authorities, Captain Oliver and Lieutenant Finn were convinced of the correctness of my theory and pleased with the aid I gave them in the evaluation of the numerous clues they had to trace. All during this time, the New York City Police Department was denied, by the New Jersey State Police, a chance to see the ransom notes. Finally, the New Jersey State Police agreed to let me see photostatic copies of all the ransom notes. They were brought to my office by Captain Russell A. Snook. There, for the first time, the New York authorities had an opportunity to see them. They were left in my possession until the completion of my study, when they were returned to the New Jersey State Police by the New York City Police Department, which photographed them so that our studies could be continued. I do not know whether the New Jersey State Police was ever informed of the photographs which were taken. I was working mostly with the New York City Police Department and presented my formal report to it. I was not actively consulted by the New Jersey State Police. Colonel Lindbergh, hearing of my work on the case, requested that I come to the Morrow home in Englewood for a conference to which the New York police was not invited.

After receipt of my report, both Oliver and Finn definitely accepted my theory. They did not cease to coöperate with other agencies in running down clues in New York City which seemed to point to gangs; but with this difference: although their investigations were still thorough, they were no longer excited and disturbed about gang clues.

For the sake of greater clarity, in the latter months of 1932, they agreed with me to think of the kidnapers as residing in a certain place. A large map was utilized in establishing a hypothetical locality bordered on the west by Jerome Avenue, with Gun Hill Road to the south, Two Hundred and Thirty-third Street to the north and Boston Post Road to the east. Of this area approximately a square mile was inhabited. On a basis of nationality this was reduced to a still smaller area, sparsely populated, which theoretically placed the kidnaper in the northeast quarter, in a well-known Swedish settlement called Edenwald. It was not known at the time that Germans had gradually displaced the Swedes in that neighborhood. Numerous plans were discussed for determining

whether the kidnaper lived in that locality. The most feasible plan under consideration was the investigation of automobile owners.

It was thought practical to obtain from the State Motor Vehicle License Bureau a list of automobile owners in that district in order to study the handwriting on the application cards and compare it with the handwriting of the ransom notes. In order to simplify the procedure, it was agreed to definitely think of the kidnaper as German, and to take only those license cards which bore distinctly German names. At the time of the trial I was under the impression that this had been done. After the trial, however, Finn told me that he had not done so, because it would have been impossible to locate the kidnaper by this method. The consensus of handwriting experts was that it was impossible to judge conclusively a man's handwriting by an automobile license, since this is often printed instead of written; and even when it isn't, it does not supply sufficient material for an analysis.

Finn did not act according to the suggestion that he investigate only our special area, but did some routine work on the Bronx in general. He overlooked the fact that, at the time, the police were interested not so much in obtaining conclusive evidence as possible clues. The handwriting in the ransom notes and the spelling characteristics were sufficiently individual to be easily recognizable, and some of the letters in the ransom notes would have to be used in filling out the license cards. For example, "x" would have to be in "Bronx," "p" would perhaps be used in data relating to occupation, and the question of complexion, in the word "light," would afford some opportunity for the inversion of "g-h-t" to "h-g-t." Cards containing such peculiarities would not have numbered more than a hundred, and a perusal of those might have offered some leads.

Finn continued with his waiting game, certain that the kidnaper would become more brazen in passing bills. He was so sure of this outcome that we began to devise plans for the eventual arrest and examination of the suspect. On May 2nd, 1933, a deposit at the Federal Reserve Bank of $2,980 in gold ransom certificates was reported. All gold certificates were being turned in by Government order and their use after a certain date was prohibited. The deposit slip bore the name J. J. Faulkner and the address 537 West One Hundred

and Forty-ninth Street. The Federal authorities and the New Jersey State Police coöperated with New York in a very careful check-up of this clue, but no J. J. Faulkner was found at that address.

Their exhaustive detective work on that one clue alone would fill a volume. The records finally revealed that a Jane Faulkner had lived there in 1921. Her family was located and she was found to be married. Because of peculiar circumstances, the whole matter was thoroughly investigated. One member in a collateral branch of the family had taken a trip to Canada under an assumed name, another had committed suicide, and a remote relative knew Dr. Condon's son-in-law. Jane Faulkner, married to Carl O. Geissler, was traced to a Larchmont, New York, address. Geissler's handwriting as taken from his passport, bank slip and marriage certificate, was found by two handwriting experts to be similar to the Federal Reserve deposit slip. But after a thorough investigation, the entire family was completely eliminated from participation in the kidnaping.

Throughout the summer of 1933, no ransom bills were reported by the banks. In order to encourage the tellers to be more observant Colonel Lindbergh offered a two-dollar reward for each bill discovered, and the New York Police Department subsequently offered five dollars for each bill. The fact that the ransom bills were in small denominations, increased the difficulty. Neither bank tellers nor merchants paid much attention to bills of less than fifty or a hundred dollars. On November 27th, 1933, the Corn Exchange Bank and Trust Company reported that a five-dollar ransom bill had been deposited by the Loew's Sheridan Square Theater. Mrs. Cecile M. Barr, cashier of the theater, gave a description of the man who gave her the bill which closely fitted Dr. Condon's description of "John."

Finn became more and more convinced that when he got the man who was passing the money he would have the receiver of the ransom bills. Throughout the spring and summer of 1934 bills were reported, but no descriptions of the individual who passed them could be secured. On September 6th, the National Bank of Yorkville reported a ten-dollar gold certificate deposited by a vegetable store on Third Avenue and Eighty-ninth Street. An employee in the shop recalled the man who gave him the bill, it had been neces-

sary to change it for a six-cent sale and he had an argument with the man. His description tallied with Mrs. Barr's and he added further details.

From September 10th on, the bills began to appear more frequently. Finn requested newspapers and radio stations to refrain from giving any notice of this fact, and he secured valuable coöperation. On September 16th, Walter Winchell, columnist of the *New York Daily Mirror,* broadcast his usual Sunday evening feature, and after a battle with the National Broadcasting Station, announced the frequent appearance of ransom bills. Mr. Winchell, aiming at the bank tellers throughout the city, said: "Boys, if you weren't such a bunch of saps and yaps, you'd have already captured the Lindbergh kidnaper." Lieutenant Finn accidentally heard the broadcast and was extremely disturbed when he heard the announcement that ransom money was again showing up in Yorkville. He felt that the kidnaper might stay under cover for a long while, making all the patient months of waiting completely useless.

Just two days later, he was informed by the Corn Exchange Bank and Trust Company at Park Avenue and One Hundred and Twenty-fifth Street that another ransom bill had been discovered. It was traced to the Warner-Quinlan Company, a gasoline station at Lexington Avenue and One Hundred and Twenty-seventh Street. Lieutenant Finn was accompanied to the bank by Federal Agent Seery and Corporal Horn of the New Jersey State Police, who on examining the bill found some numbers written on the margin. He and Finn thought they resembled an automobile license number and telephoned the State Motor Vehicle License Bureau. Armed with the information that the license number belonged to a Richard Hauptmann of 1279 East Two Hundred and Twenty-second Street, they went to the gasoline station and received further corroboration of previous descriptions.

Arrest and Extradition

Since the description of Richard Hauptmann given by that bureau, tallied not only with Mrs. Barr's description, but with

others as well, the long hunt for the kidnaper of the Lindbergh child seemed at an end. All police agencies concerned were quickly notified that an arrest was imminent. It was fitting that Lieutenant Finn be in charge of the arrest as it was his work, based on my advice plus his own strategy, which led him to the kidnaper's home. In this case, the ordinary routine arrest could not be pursued. If Hauptmann's home were surrounded and entered, valuable evidence might be lost, for quite possibly the money might not be hidden in his home. Throughout my repeated conversations with Finn concerning the method of the arrest I had stressed the point that it would be advisable to arrest the man away from home so that at least one bill, which I thought he would always carry, would be found on his person. Afterwards, Finn, discussing the arrest and search of Hauptmann on the street, which revealed one ransom bill, told me that even in the excitement of the moment, he remembered my prediction.

Meanwhile, Hauptmann's home was secretly watched by New Jersey troopers and Federal agents. Finn, however, fearing they might lose their patience and spoil his plans, did not wish them to remain on watch all night. He therefore had the home surrounded during the night by a carefully chosen group of expert policemen, and the others left.

Before sunrise on September 19th, 1934, everything was in readiness, all forces on the alert for the appearance of Hauptmann. Arrangements were made to follow him in three automobiles, each one containing a representative of the three interested police groups. At eight fifty-five he came out of the house. His appearance fitted all descriptions. He walked toward the street, and went to the garage and took out his automobile. He was unaware that he was followed.

After trailing him for a few miles, Trooper Duerr, in his autobile, being afraid that Hauptmann might disappear in the maze of traffic, signaled to him to edge toward the curb. John Wallace of the New Jersey State Police jumped out, quickly ran over to Hauptmann and slid in on the driver's seat with him. After he was taken out of his automobile, Lieutenant Keaton of the New Jersey State Police and Finn began to search him. Keaton found one twenty-dollar gold ransom certificate. Inspector John J. Lyons was notified

directly of the arrest, and his presence was awaited before the suspect's house was searched.

Hauptmann was not immediately informed of the crime of which he was suspected, but was approached on the subject of counterfeit bills. He was asked if he had any more at home and admitted he had "a hundred and twenty dollars in gold." He was then taken back to his home by the police and a search of the premises was made. After an hour and a half he was taken to the Greenwich Street police station. There he remained that day and several days thereafter, while a thorough inspection of his home and garage revealed $14,600 hidden in unusual places. After lengthy questioning, Hauptmann was put in a line-up, which, except for him, was made up of police officials. Dr. Condon and those who had previously described the passer of the Lindbergh ransom bills were requested to make an identification.

This procedure must be severely criticized, for it hardly smacked of an impartial method. Regardless of how the policemen in the line-up were clothed, they were not charged with offenses and their consciences were easy. Their attitude must of necessity have conveyed this essential difference between them and Hauptmann, notwithstanding that they might have been selected because of similar, as well as different, physical characteristics. Another important distinguishable trait was Hauptmann's pronounced German accent.

Dr. Condon, on viewing the line-up, asked permission of Inspector Lyons to conduct his own investigation. The inspector, although puzzled, allowed him to handle the situation in his own way. From a number of men in the line-up Condon then asked four to step forward. In order to hear the voices of the men, he asked each man his name. Next, on slips of paper, he wrote some phrases which "John" had uttered to him in the cemetery. Handing the slips to the four men, he asked each one to read out loud. Addressing Hauptmann in particular, he asked him a few words in German and Hauptmann replied in his native tongue.

After Dr. Condon's conversation with Hauptmann, he left the Greenwich Street police station without making a declaration of his identification.

On September 24th, Hauptmann was held without bail for a

hearing and then transferred to Bronx County and thoroughly examined by District Attorney Samuel J. Foley. A case was prepared wherein Hauptmann, accused of having taken the ransom money from Dr. Condon, was charged with extortion. He was taken before the Bronx Grand Jury on September 26th. This procedure was necessary because it was held doubtful at that time whether the State of New Jersey would have sufficient evidence to warrant trial on its charges, handicapped as it was by its legal code which stemmed from the old English common law. The best available legal advice was sought for an indictment which would warrant asking the State of New York for the right of extradition. The ambiguous phraseology of the New Jersey statutes made the charge of kidnaping impossible; there was no provision in its code to allow for the prosecution of so modern a crime. After numerous conferences, an indictment which could stand the test of extradition was prepared.

At the time of Hauptmann's arraignment in New York, on charges of extortion, the Hunterdon Grand Jury met and handed down an indictment of murder during the commission of a felony. Numerous legal experts had been consulted, and the following indictment, handed down on October 18th, 1934, perhaps one of the shortest indictments ever presented in such an important case, allowed for extreme latitude in the presentation of evidence:

> The grand inquest for the State of New Jersey in and for the body of the County of Hunterdon upon their respective oaths present that Bruno Richard Hauptmann on the first day of March, in the year of Our Lord One Thousand Nine Hundred and Thirty-two, with force and arms, at the Township of East Amwell, in the County of Hunterdon aforesaid, and within the jurisdiction of this court did wilfully, feloniously and of his malice aforethought, kill and murder Charles A. Lindbergh, Junior, contrary to the form of the statute in such case made and provided and against the peace of the State, the Government and the dignity of the same.

The extradition proceedings were held in the Bronx County Court and the State of New Jersey presented just enough evidence to warrant its request without revealing its complete case

to defense counsel. *The State of New Jersey* was granted the right of jurisdiction despite defense counsel's efforts to the contrary.

Immediately after Hauptmann was removed to Flemington, Hunterdon County seat, on October 19th, Attorney General David T. Wilentz of the State of New Jersey requested an interview with Dr. Condon, who graciously consented to go to Perth Amboy to see him. Dr. Condon then told Wilentz that the prisoner Bruno Richard Hauptmann was "John," and asked permission, which was granted, to see Hauptmann again. At the Flemington jail, the doctor saw Hauptmann and had a lengthy conversation with him. In the presence of other officials, he reaffirmed his identification of the prisoner.

Dr. Condon's refusal to declare his identification of "John" in the New York City police station was always attacked by those who believed Hauptmann innocent, as a definite failure to identify "John." I discussed this point with important police and legal authorities, and came to the conclusion that it was his gesture of revenge against the treatment accorded him by police officials of both States when they attempted to shake his story of his innocent participation in the ransom negotiations.

A few days prior to Hauptmann's execution, however, Governor Hoffmann gave me a different version of Dr. Condon's failure to declare his identification of "John." [1]

[1] See pages 390-91.

II. PSYCHIATRIC ANALYSIS AND INVESTIGATION OF THE CRIME

The announcement that a crime has been committed is usually met by the public with an outburst of emotion coupled with subjective reasoning which leaves in its wake a complete loss of perspective. Immediately following this primary dissipation of emotion, the individual either loses interest or assumes a more objective attitude in which intellect begins to function, and he takes upon himself the task of determining the motivating factors in the commission of the crime.

In the light of modern contributions to the understanding of mental processes, it is evident that reasoning in the vast majority of people is governed, and therefore colored, by their past experiences, their past emotional life. This concept has met with a great deal of resistance because of the subtle implication that one is unable to think clearly, objectively, on very important questions. But it cannot be denied that man is the product of the sum total of his past personal experiences, and meets life with the equipment so gained. It was natural, therefore, to find many manifestations of emotion when, the Lindbergh child not being immediately returned, the world resorted to what it considered an objective analysis of the crime.

The approach to the solution revolved of necessity around the answers to two important questions: how and why the crime was committed. The question "why" seemed to be answered readily, for the kidnaper left a note asking for $50,000, seemingly an adequate explanation of motive. The question of "how" the child could have been removed from the nursery caused individuals to add to the known facts certain conditions and circumstances that were not borne out by authoritative investigation. These additional con-

ditions or circumstances supplied by individual phantasies resulted in a variety of conclusions and solutions too numerous to mention. Suffice it to say, some concluded that the child was not removed from the room by means of the ladder; they insisted it was impossible and that the ladder was put there as a false clue. Some believed that the ladder was used, but that the crime was committed by a gang, with or without aid from some member of the household.

Those adhering to the gang theory, without inside aid, found in contemporary kidnaping crimes many examples to support them. Those holding that aid from the household was essential to the successful commission of the crime, presented a variety of theories as to who the person or persons were. Some of these theories incorporated the names of servants in the Lindbergh and Morrow homes, some went so far as to include the names of relatives who for some imaginary reason might have instigated the kidnaping of the child.

With the multiplicity of conclusions I found myself at variance. These answers to the questions "how" and "why" did not appear to be the result of objective reasoning coupled with present knowledge of crime and criminals. It was true that such knowledge was extremely limited, but even that which we possess was not utilized in the conclusions expounded by laity and police alike.

The question "how" seemed to be definitely and conclusively answered by the known factual elements. A ladder and a chisel, both alien to the regular equipment of the household, were found on the estate. Ladder marks and footprints on the soil underneath the nursery window, coupled with marks on the side of the house immediately underneath the window, indicated and seemed to be definite proof that the ladder had once rested against the house so that a person could have entered the room through that window. In the nursery were footprints from that window to the crib, and the soil on the floor was similar to the soil outdoors where the base of the ladder had rested. The members of the household, after thorough investigation, were eliminated as suspects. What I considered of extreme importance was that the Lindbergh family, contrary to custom, were at Hopewell on a Tuesday although they had not expected to make such a lengthy stay. If members of the household had been participants in the crime, their plan would have

taken into consideration the usual customs and practices of the family, not the unusual.

That the child could have been removed without detection, or any suspicion being aroused by noises, was clearly demonstrated in a crime committed in a small town in Pennsylvania in 1920. A family consisting of parents and three children lived in a private house in fairly comfortable circumstances. An eighteen-months-old son, the youngest child, slept in a room with the two older children. The adjoining room was occupied by the parents. One night, the mother heard a slight sound and awakened her husband to investigate the cause. No one else heard the noise and when the father entered the children's nursery, he found the two older children asleep and the baby's crib empty. A ladder had been used to gain entrance to the baby's room, located on the second floor, and the child kidnaped. During negotiations for the return of the child, a man was apprehended as he picked up a package supposed to contain the ransom money. He confessed and explained that while carrying the child he had accidentally smothered it to death. He weighted the child's body with iron, he said, and dropped it into a river. A search revealed the iron, but the body was never recovered. The man was convicted and, due to a technicality in the law, because the body was never recovered, was sentenced to life in prison. This man committed the crime alone.

This crime bore directly on the "how" of the Lindbergh case, proving that noiseless removal of the child by the ladder was possible.

To one interested in psychopathology, the "why" appeared to be the focal point of interest, and was not readily answered. It is true that money could be considered a motive, but the $50,000 demanded appeared to be out of proportion to the enormity of the offense. In the light of psychology, such a discrepancy allowed for speculation.

Kidnaping had become a rather common crime, concomitant with the development of powerfully organized groups engaged in bootlegging and other lawless activities. It was a crime symptomatic of the era. Limited studies of the facts and psychology associated with these typical gangster kidnapings revealed some definite

formulations. In the main, organized gangs kidnaped their rivals as a means of obtaining money and eliminating competition. These crimes, at times extremely atrocious, were not associated with any sense of guilt on the part of the criminals. They, with their warped psychology, thought it justifiable for anyone outside the law to use a lawless method in attacking anyone else whose activities and business were outside the law. They considered their code just as logical as does a law-abiding citizen who uses constitutional law to adjudicate his difficulties with his fellow men.

Another group of kidnapings which might fall into the category of crimes committed by organized gangs or of criminals working alone, were committed against respectable members of the community who had attained importance and wealth. Knowledge of how the mind functioned in these instances revealed a rather common point of view among criminals. By a complicated, circuitous process of reasoning, they likewise considered their acts justifiable, and had no sense of guilt. They had definitely chosen to live outside the realm of law by overt activities. They believed that the rich citizens they were attacking had simply "gotten away with it" in the amassing of their wealth; that by some luck or ingenuity they had not been detected. In all cases, the criminals' process of reasoning allowed them to accept the conclusion that their victim's climb to power, however legal and law-abiding, must have been at the expense of any regard for ethics.

Although it may seem a strange assertion, the concept of ethics held by criminals is more stringent than that of any other group. They have decided to give up the conventional code of ethics established by man and they have openly declared by their activities that they are so doing. They feel themselves honest. Hypocrisy is, to them, the only dishonesty, and from their point of view the man who has chosen to live according to the laws propounded by society, and is then guilty of unethical practices, is perhaps the most vile of human beings. It is impossible for the criminal to believe that the success of a person in the law-abiding group is associated with honesty and legitimate efforts. The refusal to accept this possibility has perhaps at its root the unconscious thought that if it were possible for anyone to be honestly successful in the law-abiding world, he, the criminal, would not have left it.

With these facts in mind, it is my belief that one of the most important aspects in the psychological study of crime is being somewhat neglected. It is, of course, logical to study the criminal and his acts in an attempt to obtain knowledge which will help us to understand him and perhaps prevent crime. *The important aspect I refer to, however, is obtaining light as to what in the individual makes him vulnerable to attack by a criminal.* The study of the crime and the criminal will never be understood until these two reciprocal forces have been evaluated in relation to each other. For every action in life, there must be a stimulus. The victim I consider to be the stimulus; the criminal and his acts, the reaction to it. As in physics and chemistry, if you know the stimulus you can always predict the reaction; so in some crimes, a knowledge of the victim will allow for a prognostication of the type of individual who would react to it.

Thus, in the Lindbergh case, I thought a solution possible if, instead of thinking in terms of the crime, the action or reaction of the criminal, one could evaluate the psychological rôle of Colonel Lindbergh and consider him as the stimulus to a crime perpetrated against him. With that as a premise, Colonel Lindbergh could not be the stimulus to activity on the part of gangsters. He did not fall into either of the two groups of individuals I have spoken of as gangsters' prey, and was therefore not vulnerable to attack by them.

Colonel Lindbergh was representative, symbolic, of an entirely different group, which was quite in the minority. His success, his achievement, were the result of long personal effort; he had not ruthlessly used the abilities of others for his own aggrandizement. His success, his position, his life in no way caused him to be basically indebted to society. In fact, when applauded, when offered by the peoples of nations all that emotion could offer, he seemed to reject it as though he were not qualified to know what to do with it. On the other hand, honors extended and offered to him on a scientific impersonal basis, he found himself well able to accept in a manner just as objective as the source from which they emanated. Money, the usual reward, the possession of which determines, in the minds of a vast majority of people, a person's degree of success, had been repeatedly rejected by him, even where others in similar

situations had accepted it. His solo flight brought him a personal reward, a personal gratification, which made the possibility of obtaining money, or the conversion of honors into commercial enterprises, negligible. The usual offers of money for the association of his name with advertising campaigns were rejected even with some degree of scorn. The publicity naturally associated with his achievements was also emphatically repulsed.

Not realizing that his successes were contributions to the world at large and that he would therefore be considered part of the world he lived in, he maintained an attitude of aloofness, resenting all intrusion. His position was rather paradoxical, in that the world claimed him, and his activities gave the impression that he lived "in the world," yet he was alien to what was going on around him. He was somewhat like an infant who realizes that he holds a position of importance in his home and is not expected to give of himself to others, or when called upon to do so, does not possess the ability. The older members of the household keep on giving in spite of the infant's reactions, but the younger members of the family, either passively or aggressively, resent the situation. The infant in such a position is all-powerful, omnipotent.

Lindbergh's abilities, his attitudes, his shyness and boyishness caused the world to endow him with the characteristics of one omnipotent. The analogy is not remote; with particular interest I have always observed and made special note of references to Lindbergh, in newspapers and in conversation, as a boy who had accomplished acts of maturity. In such a situation, the maternal and paternal instincts are usually aroused and the person is applauded, perhaps, in the unconscious as one's own successful child.

The proved laws of physics, as applied to magnetism, show that opposites attract and likes repel. Thus, a working basis of the possible antagonism to Lindbergh could be sought in this premise. Lindbergh was, in the world of reality, all-powerful, omnipotent. Another person, inferior in the world of reality, but with an unconscious drive and phantasies of being powerful and omnipotent, would see in him an enemy. A successful attack on this "enemy" would, in the reasoning of the inferior individual, immediately evoke a feeling of adequacy in that the great one had been attacked and made humble.

If such a premise applied to the commission of the crime, then it was committed by a "lone man." His activities, his counsel, would be the result of independent conclusions; he would act just as he phantasied Lindbergh acted. The demand for $50,000 would satisfy the actual need for money, but the taking of the child would be the thing to completely gratify the unconscious drive, making the attack against Lindbergh more complete. It has been definitely established that a child, especially a male child, psychologically satisfies the everpresent unconscious drive for immortality, and the phrase, "We live through our children," appears to be the conscious expression of such desires. The most devastating blow to the virility of a parent can be struck through an attack on the child.

On this basis, I came to the conclusion that irrespective of a conscious plan on the part of the kidnaper, the child would be killed —if not deliberately, then accidentally. For if the crime were governed by unconscious drives, these forces would be gratified only by the death of the child. Such indirect gratification has corroboration in the popular phrase, "accidentally on purpose."

With such formulations accepted as premises that could be applied to the crime, I met Mr. Leigh Matteson, science editor of the International News Service, early in April, 1932. Matteson, who was interested in the case, was of the opinion that an insane man could have committed the crime. In an attempt to obtain medical corroboration of his belief, he visited Dr. Lindsay R. Williams, secretary of the New York Academy of Medicine, who referred him to Dr. Israel Strauss, chairman of the Committee on Medical Jurisprudence; and as I was secretary to that committee, Matteson was finally referred to me.

After an exchange of opinions which revealed, despite the difference in our professions, a common point of view as to how the crime could have been committed, we agreed to work toward its solution along the lines of the "lone man theory." When it was known that the ransom negotiations had failed, various newspapers reported the contents of the ransom notes in detail and the activities of Dr. John F. Condon as "Jafsie" in the negotiations. In a general way, there was a consensus in this published information. In some essentials, however, a marked difference was noted. Even Matteson, who had been guarding what he thought was an accurate

reproduction of the original ransom note, later realized that it was a garbled version and that there were important differences between it and the original.

Although it may be said that I was biased by my original premise and was now trying to fit the facts to it, I tried to be as objective as anyone could be and was constantly aware of the possibility that preconceived ideas might influence conclusions. Additional facts in the newspapers gave what seemed to be further corroboration that the crime had been committed by a lone person. The reading of the ransom notes, associated with the reports of "John's" activities, allowed for continued speculation. The writer of the notes repeatedly, and at times irrelevantly, stressed his wish to return the child unharmed. These declarations were at variance with the known phraseology used by kidnapers in ransom notes to the relatives of their victims. According to numerous precedents, injury to the victim was constantly stressed, with the obvious purpose of striking fear and so hastening negotiations. At times, the threat of injury was enhanced by a description of the torture to be used if their terms were not met—a weapon found to be most effective in forcing people to pay the ransom money and discard plans for apprehending the criminals.

The fact that the Lindbergh ransom notes completely lacked such threats aroused my suspicion, and the reported conversation between Condon and the alleged go-between, "John," increased it. From a psychopathological point of view all words, no matter how irrelevant in conversation, are deemed important. In fact, an uncalled-for statement or an apparently irrelevant remark is usually indicative of some conflict within the person and on that basis calls for an interpretation. During the conversation in Woodlawn Cemetery, "John," without any apparent relevancy to previous conversation, uttered the phrase: "I might even burn." This statement surprised Condon, who immediately asked him just what he meant by it. "John" then asked Condon, "Vat if the baby is dead, vould I burn if the baby is dead?" The tense of the question clearly indicated that "John" did not mean what would happen to him if in the future, while the child was being held by the kidnapers, it should die. He clearly indicated by his wording, from a psychopathological point of view, that the child was now dead and in

view of that fact, would he burn. This question of his, taken in connection with the absence of threats in the ransom notes, and with my original premise of the motivating factors in the commission of the crime, brought me now definitely to the conclusion that the child was dead. Further corroborative evidence was supplied by the formal announcement, one week after the ransom money had been paid, that the child had not been returned.

Analysis of the negotiations between "John" and Condon revealed that here, too, as well as in the ransom notes, there was no precedent in gang procedure. As an emissary for a gang, "John" was too loquacious; he had spent too much time, more than an hour, in his first conversation with Condon. Although "John" had thought that he was being followed by police, he still sat down with Condon and engaged in a very lengthy conversation. At the final meeting place, upon the suggestion of Condon, without any hesitancy, "John" reduced the ransom sum of $70,000 to $50,000. Knowledge of gang procedure reveals a totally different method. A gangsters' go-between plays a very insignificant rôle. He always acts ignorant of the plans connected with the crime. He is rarely loquacious. His rôle is to obtain the money demanded by the kidnapers. In a vast majority of cases, when plans are made for the first meeting, the kidnapers do not appear, but inform the relatives that they are being watched and that their methods, if continued, will result in the failure of transactions. The kidnapers find this method also very effective in eliminating the police and establishing successful contact with the relatives.

On the basis of the foregoing observations, I was firmly convinced that no organized gang committed the crime of kidnaping Charles A. Lindbergh, Jr., and that the baby was dead.

In order to further check on my theories, which I felt were not completely corroborated, I thought it advisable to obtain more factual material from an authentic source. An appeal for such data, including the ransom notes, was made to the police department of New York City. I was very much surprised to learn that although they themselves had made repeated efforts to study the notes, permission had been denied them, and a further request for photostatic copies of the notes had likewise been denied. Since the sources of material for continued study were closed, nothing more was done

until May 12th, 1932. On that day the finding of the body of Charles A. Lindbergh, Jr., activated new endeavor. The finding of the body seemed to be conclusive corroboration, to me at least, of my original hypothesis.

Now that the child had been found dead, the police seriously set into motion plans for the apprehension of the guilty persons. The New Jersey State Police, as part of their routine, sent to most of the law-enforcement agencies of the country photostatic copies of the ransom notes, which were thought to contain typical characteristics of the writer's handwriting. While examining one of these police flyers, I subjected the phrase "Gay Head" to detailed study.

Under a magnifying glass, this phrase appeared to have been written "Gun Hill." The letter "a" in "Gay" showed definite signs of having been written as a "u," and by an extra elliptical stroke of the pen, the "u" was made into an "a." The "y" appeared to be originally written as a printed "n" and was changed to "y" by an added down-stroke. The word "Head" was originally written "Hill" and the "a" and "d" showed definite shadings in writing which indicated that the double "l" by extra strokes were transformed into "a" and "d" respectively. The "e" in "Head" was written as an "i." As one read the word "Gun Hill," one automatically added the word "Road," which formed the name of a main thoroughfare in the Bronx in the immediate vicinity of Woodlawn Cemetery.

This observation strengthened the belief that a study of all the ransom notes would reveal clues to the writer, and the New York City Police Department again asked the Jersey authorities for an opportunity to see them. Although they gave the reason for their request, it was still denied them. Because of this lack of coöperation there was another enforced quiescent period.

In the latter part of October, 1932, Captain Oliver and Lieutenant Finn, assigned to the investigation of the crime, had an extensive conference with me. There was a frank exchange of views. I discussed in detail my theoretical deductions in regard to the crime and the criminal. These two practiced detectives were most understanding and expressed the opinion that it was not difficult for them in the light of their experience to accept the "lone man theory."

As a result of this conference we made an urgent request for a

chance to see the ransom notes, and this time it was granted by the New Jersey officials. Captain Russell A. Snook delivered enlarged photostatic copies of all the notes to us in my office and they were given to me to keep and return when finished with them. Captain Oliver and Lieutenant Finn now had their first opportunity to carefully read and study all of the notes. Before my first report was fully prepared, Captain Snook informed me that he had arranged for a conference at my office, at which time Colonel Lindbergh and representatives of the various police agencies were to be present. Captain Snook later told me that Colonel Lindbergh was afraid there might be a leak about the conference which would result in publicity, and requested that it take place in the Morrow home at Englewood instead. I was surprised and embarrassed when informed that Captain Oliver and Lieutenant Finn were not to be included. Lieutenant Finn, although displeased at such an arrangement, insisted that I attend, but advised me to discuss my theories only in a very general way. From his knowledge of the attitude of the New Jersey State Police, he believed they would resent interference and, therefore, reject my suggestions.

Early in November, 1932, the conference was held in the Morrow home. Representatives of the New Jersey State Police were present, as well as Colonel Lindbergh and Special Agent Frank J. Wilson, head of the Intelligence Unit, Internal Revenue Bureau, United States Department of Justice. Enlarged photostatic copies of the ransom notes were spread on the floor of the library, and in this intimate setting a general discussion was held during which I explained my views. Neither Colonel Lindbergh nor the police authorities expressed any reaction to my theories. They did, however, ask me to take the copies of the ransom notes with me and keep them as long as I wished for further study of the kidnaper's personality.

I drove to New York with Mr. Wilson whom I found to be an unusually modest man, with the extraordinary intelligence necessary to the position he held in the United States Government. He did not hesitate to express his opinions, and I elaborated more fully on the ideas that I maintained applied to the crime. He freely admitted that, thus far, his personal, extremely under-cover visits to the underworld had revealed nothing to make him believe that an

organized gang had been responsible for the crime. In fact, he had obtained positive statements from some notorious gangsters that at no time could they have considered kidnaping the Lindbergh child. Some of these criminals also said that if any organized gang had been responsible for the crime, the sum of money demanded would have been in excess of $200,000. Mr. Wilson was sympathetic to the "lone man theory" but, as routine, was still bound to continue his studies on the basis that some highly organized gang was guilty.

When Dr. Condon's name came up in our discussion, we both expressed complete confidence in his honesty and integrity. We felt, however, that his personality would not be understood and that when the guilty one or ones eventually were apprehended, it would be subject to attack. As a psychiatrist, I predicted that if Dr. Condon were alive when the perpetrator of the crime came to trial, his age, coupled with a past history of eccentricities, would make his testimony extremely vulnerable to attack by the defense on the basis of mental competency. We agreed that his condition would not warrant such an onslaught. Both of us expressed the opinion that a suspect should be arrested only on evidence so strong and of such a nature that he could be tried without the supporting testimony of Condon. I stressed the reaction of public opinion if from time to time various men were arrested as suspects and then freed: when finally the guilty man was arrested, public opinion, as well as the defense, would use so many false arrests as an ideal defense for him. I urged, therefore, that no suspect be arrested and formally charged with the crime until detailed investigations proved him guilty beyond a reasonable doubt in the opinion of the police authorities. Wilson heartily agreed to all such suggestions.

A day or so later, Oliver, Finn and I continued our conferences on the analysis of the crime and plans for an approach to its solution. They were willing to accept any theoretical interpretations and suggestions. They admitted that their superiors thought very little of psychiatry, and Finn even declared that his colleagues had already accused him of being "touched" by it. Nevertheless, we devised a plan whereby we could work together. I was loath to reduce all of my thoughts into writing, for I had been convinced that if I did so, their already skeptical colleagues would reject the report and discard entirely the "lone man theory." It was therefore verbally agreed that I was to express all my thoughts and ideas to Finn and Oliver but that my report to the police department would be of a general nature.

Although this was approximately eight months after the commission of the crime, and a great deal of work had been done on the case, we thought it advisable to make a fresh start in the approach to the apprehension of the guilty person, and toward this end we took, as a working base, five questions to be answered about the kidnaper: nationality; residence; occupation; mental characteristics; physical characteristics. It was a synthetic picture of the criminal. We all laughed at the task of answering these five questions but consoled ourselves with the fact that such a procedure would at least allow for an intelligent approach and a concentration of forces and energy in a definite direction. All other methods involved a scattering of energies and were extremely illogical. The following memorandum was sent to the New York Police Department:

November 10, 1932

Memorandum to
Captain Oliver and
Lt. James Finn of the
New York Police Department

The following notes are the impressions I gathered and the interpretations I made as I read and studied the contents of the letters submitted to me. These impressions are drawn from my experience as a psychiatrist particularly interested in the functioning of the unconscious, in other words I did not read them as a graphologist or as a criminologist.

As a result of my discussions with you I gathered that you welcomed my going at times into extremely theoretical interpretations and that it would not be amiss for me to make some observations that would be the result of the natural feeling tone that a psychiatrist would have in reading such documents. There is another point that I wish to emphasize before recording my deductions and that is that it is not my intention to sway you to accept the opinions I am recording.

It is hoped that in some of these deductions you may find certain thoughts and ideas that will further your own generalized concept of the case. If I at times go far afield on the theoretical side you may discard such suggestions and adhere to only those that are acceptable. Rejection of part should not mean complete rejection of the whole.

1. Upon reading the letters, without an attempt at analysis, one is immediately struck by the Germanic phraseology. At times whole sentences and phrases appear to be confused; but one immediately corrects this when thinking of the sentence as a literal German translation. Thus we have the phrase, "to it," which appears to be incorrect, but which is corrected when one thinks of "dazu." The sentence, "We cannot make / any appointment just now." Here we see the word "make" omitted, when the sentence was written. When thinking in German "make" would come at the end of the phrase and we understand why it was omitted and finally inserted in its proper place.

Another example: "once he has to come to us anyway" is understood if here again one thinks in German and supplies the word "einmal" for "once." The individual letters, such as, T and G and A and X are constant and typical of German script. The phonetic spelling of some of the words is also typical. The use of the double hyphen (=) in "frank=further" is added evidence. There are a few words which in English are separated and are correctly joined in the German language. Thus we have sleeping suit written as "sleepingsuit" (in German one word, *Schlafanzug* or *Schlafrock*). There are numerous examples of this "German thinking." Whether this "German situation" is a deliberate attempt to deceive or indicates an unconscious emotional factor in writing sentences and words as above mentioned, the writer of the letter had the ability to think correctly along German lines and thus we are forced to the conclusion that he is a German.

2. In reading the documents one is struck by the appearance of a marked tremor in the writing of words, a transposition of letters in the spelling of the word and the omission of some letters in the spelling of a word. This was constant at times and yet at other times the writing was rather fluent. It made me think of the rather characteristic writing in a condition called general paresis (an insane condition due to syphilis), but I was unable to adhere to this diagnosis (although I must repeat that some of the writing was characteristic) because a person with this type of insanity could not carry on as we know the writer certainly did.

3. In reading the contents of these documents there is a striking absence of a threat. There is no intimidation. There is no attempt on the part of the writer of the letters to use some compulsion which will make the parents of the child hasten the payment of the ransom. At one time there is a suggestion of a threat in the form of increasing the ransom sum but the writer of the letter immediately negativates this as a threat, and in a way assumes an apologetic attitude by stating that the increase is due to the necessity of hiring another "lady" to care for the child. The absence of this threat to kill must be evaluated, for it is so contrary to what one would expect to find in such a case.

4. The attitude of the writer as portrayed in these documents together with his conduct indicates a sort of omnipotent attitude. Coupled with this we find a tendency toward exhibitionism. Let me recall his conduct with Mr. Condon. He meets him; thinks that he is being followed; runs away from him; exposes himself, not very far from the place of flight; meets Mr. Condon again and without any degree of fear sits down and has a prolonged conversation with him. This is a very striking situation, and calls for very serious consideration. In the letters we have the apparently incorrect statement: "Is it necessary to make a *word* affair out of this?"—and again: "It is really necessary to make a *world* affair out of this." There can be no conscious, deliberate, wilful purpose in making the errors noted. It must be a true slip indicating the unconscious of the writer. He is interested in the exhibitionism involved in this whole affair. The argumentative attitude noted in the letters, the tendency to ask questions that cannot be answered, are also added evidence of the type of personality, e. g.: "Did you receive our letter?" "Why did you ignore our letter?" "How can Mr. Lindbergh follow so many false clues?" "Please let us know . . ." The increase of ransom by $20,000, and giving the explanation that it is because they have had to add someone to help them.

5. As stated before, at times one notes the writer's inability to complete the spelling of a word, a marked tremor, a blurring of letters, a correction of a word; and immediately after, the writing changes completely and is rather fluent. When one studies the situation one realizes that the defect in writing is very marked when it relates to the baby or some emotional situation involving it, or when making a promise which we now know could not have been fulfilled. It is very difficult to make actual quotations to illustrate this point, but a glance at the letters would suffice and immediately clarify this fact.

6. Coupled with this emotional upheaval and the verbose content of the letter, there is a directness of thought. There is the use of such words as "Press," "equipment," the spelling of "go-between." The correct spelling and use of other difficult words to indicate definite intelligence and education.

7. The drawing of a box in perspective indicating depth and the correct placing of the dimensions suggest a mechanical aptitude.

8. The planning of the words on the paper, the definite and rigid

margin on the left and what has been told me of the placing of the symbol could be accounted for by the use of a frame. This observation is very difficult to put into words but when one looks at the letters with this thought in mind it looms up as an acceptable idea. The symbol on one sheet is placed on the lower left corner instead of the right as in the others, but this is accounted for by the fact that it is the reverse side of a sheet.

9. In the type crime that we are confronted with it is quite natural that a sane or insane man would use some identifying symbol or code. In the light of the new psychology and the application of it to psychiatry it is not too theoretical to make an interpretation of the meaning of symbols.

The symbol used as the identifying mark must be classified as an indication of homosexuality in the life of the writer of the letters. There are some other similar indications in the general content of the letters which are very difficult to describe in a report but are easily pointed out in the body of the letters. The end of one letter contains the sentence: "the sleeping suit from the Baby." The arrangement of this sentence is psychologically very important in that it is

"the sleepingsuit from the
BABY."

BABY is really the signature. Thus we have the writer identifying himself with the baby.

10. The mental makeup of the man is strikingly indicated when one realizes that these letters attempting to establish contact for ransom and the actual negotiations for the ransom were carried on with the knowledge on the part of the writer of the letters that the child was dead. True, all of this was done while the public was not aware of the death of the child. It could of course have been possible for the authorities to have been aware of this death and for them to have kept it from the public. The omnipotent attitude, the complete loss of perspective in such a situation, is such as to require careful consideration of the type of person who would commit the crime in question.

11. At one place in the letters there is the word "Gay Head," which upon careful analysis reveals some indications that the writer may have originally written "Gun Hill." This must be taken into consideration in view of the fact that Gun Hill Road is in the immediate vicinity of the ransom transactions.

12. In one paragraph the word "boat" is used four times. In spelling the word the first time the formation of the letters is entirely different from any other formation in the documents. The second usage of the

word "boat" is again different, and the third writing of the word "boat" indicates real difficulty and confusion in writing the word. This same confusion is evident in the fourth. The interpretation of this must be very important. It indicates some confusion in the use of this word in the paragraph, but I am unable to give an explanation. As far as I am concerned I have no hesitancy in feeling that the difficulty is not related to an attempt to disguise writing, or some other conscious, deliberate effort to deceive the recipient, thereby preventing identification. It in no way serves that purpose.

13. I hope to be able to prove that the confusion in this paragraph is directly related to the unconscious truth of where the child was actually buried. This is a highly theoretical conjecture which I shall elaborate on in some other report. You, however, once reading it, please discard it until I again call it to your attention.

14. The ransom note itself contains a number of important psychological inferences. Whereas in general it is quite terse and definite the spelling and the character of the attempt to disguise writing is such as to indicate something very much deeper than the superficial explanation that the writer was disguising his handwriting. My own ideas of this are not definitely formulated but I have verbally conveyed some of them to you. When I have crystallized my ideas in reference to the psychological inferences I shall report them to you. There are no doubt a number of thoughts that I expressed to you verbally that I have omitted in this report. I hope that you have not forgotten them. In the immediate future I shall send you another memorandum as to some of these additional interpretations.

15. As a result of my study of all the facts that I have obtained through the various official and semi-official sources, I personally am of the opinion that the individual involved in this crime is a case of dementia praecox with intelligence apparently intact.

(a) It is perfectly possible for a man with this condition to carry out all the steps involved in the commission of this crime.

(b) This individual may have to a striking degree some constitutional similarities that allow for identification with Lindbergh.

(c) He is of German origin and still "thinks" along German lines.

(d) A guess at the man's age would place him closer to 40 than 30.

(e) I am of the opinion that there are homosexual tendencies in this person.

(f) If I am correct in my concept of the man being insane I am of the opinion that he must have at one time had a period of incarceration in an institution. This period may have been of short duration.

(g) It is my belief that this man resides in the Bronx.

(h) I would suggest that the man's occupation involves mechanical aptitude.

(i) I believe that while a great deal of publicity is being given to the case the man will exhibit very much greater precaution than even a sane man.

(j) If my concept is correct this individual will exhibit less precaution with the absence of publicity.

(k) If this man has an acute mental breakdown before he is detected, it is my opinion that it will take the form of mutism. In that state he will not be talkative.

(l) It would even be wise from now on to check up the history of every man admitted to psychopathic institutions who has this type of acute mental picture.

(m) You must bear in mind that all insane persons are not feeble-minded and that they are not, in the language of the laity, "raving fools" or "maniacs" easily detected.

(n) The letters and acts clearly indicate, to me at least, that this crime was not committed by someone who can be termed the professional criminal. Surely we can entertain the thought that he was an amateur. It is not difficult therefore for this person to fit into my classification.

(o) Some of the conclusions and statements in this report, even those that appear to be highly theoretical, were suggested a long time ago, prior to the finding of the body and the termination of contact with the kidnaper. The additional letters and further official and semi-official knowledge have not done anything else but give me further proof of the original contentions.

I wish to again call to your attention my introductory remark, and present this report to you for any use that you can make of it. I have exceedingly enjoyed my contact with both of you, and I shall consider it a privilege to be of any further assistance to you.

DUDLEY D. SHOENFELD, M. D.

After the completion of the study of the ransom notes they were given to Finn, who had them photographed before he returned them to Captain Snook, so that if we needed them again in the future we would have them available and not be forced to resort to the New Jersey authorities.

Now the police officers and myself suddenly found ourselves con-

vinced that with these questions answered the criminal would be apprehended; we even discussed the circumstances, the plan of how the eventual arrest was to be made. We agreed that when arrested, the method of examination of the suspect would have to be entirely different from the usual police examination of criminals. I suggested that no publicity be associated with the arrest and that, if a confession were to be obtained, the suspect should be examined as one would examine a mentally ill person. It was therefore deemed advisable, when the criminal was apprehended, to make a technical arrest and then remove him to either a hotel or an apartment which would provide comfortable surroundings and eliminate the formidable atmosphere of police headquarters. I was certain that the personality of the arrested man would be such that he would strongly resist the severity of an official environment, thereby making a confession impossible. I was equally certain that if a confession were not obtained immediately after the arrest it would be extremely unlikely that he would confess at any future date, even though convicted, and no matter how conclusive the evidence against him might be; on the contrary, he would loudly maintain his innocence.

Nationality

The question of nationality was deemed extremely important as an aid in the detection of the criminal. If he were a foreigner, the locality in which he resided would limit the area in which to seek him. If "John" lived in New York City, one would be justified in searching for him in a locality largely inhabited by people of similar nationality. It is an established fact that New York City, owing to its location and its history, is a striking example of the truth of the herd instinct. Aliens arriving in this city at first take up residence with their fellow countrymen. Then, according to the degree of assimilation, they either continue to live in this section or move outward into districts more in harmony with the new country.

In the cemetery, "John" informed Dr. Condon that he was a Scandinavian. A perusal of the ransom notes for detection of the

nationality of the writer contradicted this assertion. A gross inspection of the notes revealed rather fluent penmanship but the misspelling of monosyllabic words. Polysyllabic words were observed to have been written correctly in a studied, careful, stilted manner. The only acceptable solution of this discrepancy was that the writer was an alien and was acquiring English by the use of a cross-language dictionary, the usual method of a foreigner in finding equivalent words.

A closer inspection of the individual construction of sentences and phrases revealed the sentence, "We cannot make / any appointment just now." This caused me to stop and interpret the reason for the omission of the word "make" in the first writing of the sentence and then its final placement. As already stated, omissions, or the addition of extra words, in writing as well as in conversation, allow one to find with a fair degree of certainty the psychological factor at the root of the error. Reading this sentence without the verb as it was originally written, "We cannot any appointment just now," if one thought in English, it would be impossible at the completion of the recording of the thought to add the verb "make." However, in view of the fact that the writer had written the sentence and then placed the verb in its proper place, it was possible to conceive that the writer was German, and that he wrote the sentence as he thought of it in his native tongue, then, realizing that he was writing in English, inserted the verb in its proper place. In another letter, the phrase, "Once he has to come to us anyway," did not appear to be the proper construction. The use of the word "once" appeared to be uncalled for, but now thinking that the writer might be of German origin, the substitution of the word *"einmal,"* if the construction of the sentence had been in German, was proper.

Investigation of the spelling in the ransom notes revealed that some of the words were actually written in German. The word *aus* correctly spelled in German was used properly for the word "out" and the word *gut,* the German word for "good," was correctly spelled and used properly in the construction of the sentences. At one time, the word "frankfurter" appeared, and in writing it, the author made use of a hyphen. The symbol for the German hyphen (=) was used instead of the English. The words "sleeping

suit" were written as one word and seemed to allow for the conclusion that it was so written because *Schlafanzug* or *Schlafrock,* the equivalent words in German, are written as one word.

In referring to Dr. Condon in the various letters and on the envelopes, the writer used the word "Herr" before the word "doctor." The word "Herr" in itself was German and the use of it as "Herr Dr. Condon" was proper as a salutation. I know of no other language in which the equivalent of "Mr. Dr. Condon" would have been used. The placing of the dollar sign after the numerals was incorrect in English but proper if the person were writing in German.

"John" had identified himself in his conversation with Condon as a Scandinavian. However, when writing the name "Lindbergh" he wrote it as "Lindberg." The spelling of Lindbergh's name was Scandinavian in origin and would have been inevitable if the writer were of the same nationality; the fact that he had not written it in the Scandinavian manner but at least occasionally thought it as German, appeared to be proof that he was not Scandinavian. All these examples grouped together pointed strongly to the thought that the writer of the note was a German. They also allowed for the conclusion that he was an alien who was acquiring knowledge of the English language but still thought in his native tongue, and that it was German. I was certain that the errors noted were not deliberate, for the purpose of disguise, but were rather the result of confusion in the author, who thought in his mother tongue while writing in the newly acquired language.

In explaining this deduction, of which I felt certain, to the authorities, I used the simple example, often noted, of the foreigner who when asked to count quickly, does so in his original language and then surprisingly announces the total in English.

Residence

Accepting the writer of the notes as being a German alien, I then associated this fact with the scene of his activities and attempted to get a location in which he might be residing. I was certain that he would be living in a German section in New York

City. The words "Gay Head," already interpreted as a main thoroughfare in the Bronx, made possible the consideration of "John's" residence in that locality. It must be remembered that a Bronx newspaper, with a more or less limited circulation in that borough, published Dr. Condon's letter, and that there was an immediate response to its publication. A taxi driver on Gun Hill Road was stopped by a man whose description fitted "John" and was hired to deliver a note to Condon. The first rendezvous that "John" had with Condon was in Woodlawn Cemetery and his directions to Condon showed that he was well acquainted with that particular area. Knowledge of the region was further indicated by the explicit directions given for the final meeting at St. Raymond's Cemetery. From all these facts, it was evident that the writer knew the Bronx very well and it was, therefore, logical to assume that he lived there.

An investigation of the paper used in the ransom notes revealed that it was bought in a chain store of a "five-and-ten" variety. It is true that these stores were scattered all over the city but one of them was located near Gun Hill Road and could have been the one from which the paper was bought.

Some of the postage stamps on the ransom note envelopes, when investigated, were found to be of a recalled issue. A careful check-up revealed that they could still be obtained in a few post offices in New York State, one of them being in the Bronx.

The question now propounded was whether such a large area as the Bronx could be subdivided so that a concentrated search could be made for "John's" residence. A visit to the significant localities mentioned in the ransom notes revealed that Gun Hill Road was the most important thoroughfare in the Bronx running east and west just south of Woodlawn Cemetery. Jerome Avenue, another important highway, ran north and south intersecting Gun Hill Road to the south and Two Hundred and Thirty-third Street to the north. It also served for a considerable distance as the west border of Woodlawn Cemetery. Two Hundred and Thirty-third Street was the first important east-west thoroughfare north of Gun Hill Road. Thus, we had three lines of a rectangle, Jerome Avenue the west border, Two Hundred and Thirty-third Street the north and Gun Hill Road the south. Both the north and south borders, if projected eastward, led to another important highway running

approximately north and south, the Boston Post Road. This inclosed area was practically a rectangle and it was now obvious that "John" knew it well enough to have actually lived there.

The inhabited area of this rectangle was a little bit more than a mile square. It was our task to find a German area within this section. An investigation, which for some reason or other was not fully completed, revealed that the extreme west portion as well as the southeast portion were not inhabited by Germans. The northeast section was accepted as an area in which Scandinavians had lived, but what we did not know at that time was that they were being gradually displaced by Germans, so we were unable to find a German section. In spite of this failure, we adhered to the premises that "John" was definitely German and lived, if not in the section already mentioned, very near it. In no other way could we account for his detailed knowledge of these localities.

Occupation

The question of occupation was extremely difficult to solve, but realizing the importance of at least a "lead," I thought it proper to make a possible interpretation of the drawing of the box which the kidnaper indicated was to be used as the ransom money container. The drawing of the box being in proper perspective and the dimensions properly placed, allowed me to postulate that the person possessed some knowledge of mechanical drawing. The box in itself was not sufficient basis for a final conclusion as to the occupation, but together with the home-made ladder found on the Lindbergh estate, it became significant. Much has been said of the poor craftsmanship that went into the construction of the ladder; this may have been because it was built in haste. But I maintained that the test of constructive ability was in the making of three sections of the ladder in such perfect fashion as to allow them to nest accurately. To me, this was the greatest indication of ability, and when I associated it with the ingenuity of construction that allowed for easy manipulation and transportation in an automobile, I had no hesitancy in stating that the man had mechanical aptitude.

Mental Characteristics

Determination of the mental characteristics of the writer of the ransom notes, whom I now felt certain was the lone kidnaper, was highly important. These character traits, if postulated, would not only confirm the motive for the crime but also be of untold value in plans for detection and for the examination of the suspect when arrested. The omnipotent attitude appeared to me to be extraordinarily striking in the notes. The conduct of the alleged go-between, "John," indicated the same omnipotence in its complete disregard of the possibility that his plans for obtaining the ransom money could in any way go astray. The very fact that he dared to meet and negotiate with an emissary from Colonel Lindbergh, knowing as he did that the child was dead, seemed definite proof that he was unaware of the seriousness of the situation. He did not realize that the body of the child might have been found and the fact kept from the public as a piece of police strategy. Qualified police authorities have told me, in fact, that this should have been the procedure.

The continuation of negotiations while "John" knew of the child's death was also, in itself, an important premise in reaching the conclusion that organized gangs or professional criminals were in no way associated with the kidnaping. Thorough investigation of this point brought positive statements from such criminals that they would have dropped the case immediately as being too "hot." Also, no gang would have kidnaped the child without first determining the method to be used in negotiating for the ransom money —and in this instance, no such plan had been made. The kidnaper had the idea that the money transaction would in some way be carried out without difficulties. It just couldn't go wrong. This attitude indicated a total disregard of reality and an abnormal belief in his own powers.

A similar attitude was exhibited in "John's" first meeting with Dr. Condon when, hiding on the cemetery side of the gate, he immediately jumped over because he thought a policeman was behind him. He ran a few hundred feet and then, without any apparent anxiety, he stopped, sat down and had a long intimate

chat with Dr. Condon, during which he seemed to have entirely forgotten his fright of a few moments before.

Directness of purpose and again complete faith that success was inevitable were manifested in the voluminous and prolonged correspondence; fourteen notes were written, which, in itself, was perhaps a record in any kidnaping case. The negotiations covered, in all, a period of thirty-two days. When it became known during this period that Colonel Lindbergh had established contact with Curtis for the return of the child, "John," in one of his notes, seemed to be pained to think that the Colonel could even entertain a belief that anyone but "John" himself could have kidnaped the child. He wrote: "How can Mr. Lindbergh follow so many false clues?" It appeared to mean, "I, 'John,' am the only one who could have done it; doesn't he recognize that nobody else is powerful enough to have committed this crime?" There seemed to be a plaintive note in this appeal for Colonel Lindbergh and Dr. Condon to have faith in him.

This plaintive note later hardened into a defiant attitude when he began to assert that he was great, that he could not be apprehended, and that there was no need for the authorities to waste time in trying to double-cross him, for he had planned the crime a long time. He seemed to take particular delight in repeatedly stating that the crime had been planned "for over a year already." He wrote that he had radio equipment in his car, a subtle implication that he was constantly on guard and could pick up police calls at any time. As it is not at all unusual for either criminals or law-abiders to have radios in their automobiles, I interpreted "John's" stressing of it as meaning he was very proud of the equipment and wanted the authorities to know he was as great as they were.

Concerning the direct relationship of the writer to Lindbergh, I found some phrases indicating a desire to convey the impression that he was as great as, if not greater than, Lindbergh. In one letter, he seemed to be well satisfied with his position in the ransom negotiations because he knew that Colonel Lindbergh would have to come to him sooner or later; it gratified him that the great man, Colonel Lindbergh, would have to bow before him. Finally, the startling, glaring "slip" in the writing of the sentence, "It is really necessary to make a world affair out of this," was

enough to convince me, even without the evaluation of other factors, that the writer of the ransom notes had a feeling of omnipotence and exhibitionism. The writer consciously meant to pen, "It is *not* really necessary to make a world affair out of this." Instead he disclosed his unconscious by recording that he really wanted to make a "world affair" out of it. I was now more than ever certain that the kidnaping of the child of the "great hero," the "great Colonel Lindbergh," had, as an unconscious factor, the attack on the Colonel himself, and that the writer of the notes saw in Colonel Lindbergh powers which he wished to see in himself. By the warped process of reasoning, a successful attack on the Colonel would make the one who attacked him just as great or even greater.

This premise, which I accepted as an important working hypothesis, caused me to carefully scrutinize the ransom notes. I was certain that in some place, in some way, the writer would make some "slip," give some sign that he imagined himself to be Colonel Lindbergh. The contents of the letters did not reveal it. In going over the conversation which "John" had with Dr. Condon, I found a remote indication of such a situation in "John's" statement that his nationality was Scandinavian, which was the same as Colonel Lindbergh's, but this was not enough for the confirmation of the premise. The examination of the envelopes, however, revealed what I had been seeking. On the back flap of the envelope of the first letter the kidnaper sent, which was addressed to Colonel Breckinridge, there was written the name of Colonel Lindbergh. As this space is always used exclusively for identification of the person who wrote the letter, I concluded that the writer of the ransom note, no matter what his conscious reasoning may have been in writing Colonel Lindbergh's name there, was in his unconscious, imagining himself to *be* Colonel Lindbergh.

The symbol on each ransom note was subjected to careful analysis as to its possible meaning. It was, in each instance, placed in lieu of a signature. The signature at the end of a letter is also for the identification of the one who has written the letter. It means "I am." If a symbol is used in place of it, one can apply the same method of reasoning: it also means "I am." A symbol

may be extremely personal to the writer or it may even be a code which had been arranged between the writer and the recipient of the letter. In this case, it allowed for speculation as to what the writer meant when he indicated "I am—" The symbol consisted of two interlocking circles forming a vertical, elliptical figure where the two circles interlocked. This elliptical area was colored red.

In the light of present-day psychology, the using of the symbol is determined on a conscious plane, but the choice of the particular symbol to be used is governed by unconscious factors. This symbol was interpreted as having definite sexual significance, and on the basis of that interpretation it meant, "I am that which this symbol indicates." However, the symbol allowed for an interpretation on another basis: it could have been thought of as a butterfly, or as two wings, with the elliptical red area as the body or the hinge around which the flap to the right and left would move. In other words, the symbol may have meant an airplane.

Thinking of Colonel Lindbergh as an aviator and the greatest aviator in the country, I associated Lindbergh's position with that of Baron Manfred Albrecht von Richthofen, the greatest German aviator during the World War. His life was well known to all Germans who had been in the War. There was a legend in Germany that he had been killed unfairly, not according to the recognized method of combat between planes, which is on the same basis as that of sportsmen who never shoot at a bird while at rest but always when it is "on the wing." German authorities always insisted that von Richthofen was killed not in flight but after his plane had landed. This may be a legend, factually, but always with legends, the people act on the assumption that they are true; and it has been stated that a society was formed in Germany to avenge von Richthofen's death. It was also well known that von Richthofen, who was extraordinarily daring, and challenged all aviators in order to be in constant combat, always had his plane painted red. For all these reasons, I interpreted the unconscious of the writer of the symbol to be identifying itself with von Richthofen.

In the very deep layers of the unconscious and on a very highly theoretical basis, the concept of the sexual symbol, and the writer's use of the symbol to imagine himself as von Richthofen, could be

equated as meaning the same thing. However, I did not elaborate on this hypothesis.

The inspection of the ransom notes revealed numerous examples, discussed above, of the correct spelling of polysyllabic words and the incorrect spelling of very simple words. As a psychiatrist, my attention was arrested at the appearance of definite signs of a marked tremor in the handwriting and numerous repetitive examples of the transposition of letters in the spelling of words, such as *"ingnore"* for "ignore," and *"rihgt"* for "right," and *"hte"* for "the." The word "signature" was in every note and always spelled *"singnature."* These observations in any handwriting are enough to cause the psychiatrist to give it serious attention and ponder over its possible significance.

In a mental illness designated as dementia paralytica, a condition caused by syphilis of the brain, symptoms of which manifest themselves as a rule ten or more years after the person has contracted the disease, one observes, perhaps earlier than other signs and symptoms, marked defects in handwriting. These defects manifest themselves in the tremor and in transposition of words in a sentence as well as in the omission and transposition of letters in the spelling of words. Although syphilis is a disease present in the civilian population, medical authorities have always observed that it is very much more common, for obvious reasons, during war time. The later manifestations, such as dementia paralytica, come many years after the individual has contracted it in the military forces. The years which had elapsed since the World War would have been sufficient for this mental illness to have developed if the disease had been contracted at that time.

One of the very common symptoms of this mental condition is an abnormal feeling of "well-being," together with an attitude of being all-powerful. In the fully developed disease, when delusions are present, these symptoms are characteristic of the illness. The signs pointing to the possible presence of such a condition in the writer of the notes were rather definite. However, since the illness is characterized by very early manifestations of mental deterioration, it was difficult to entertain this diagnosis as applicable; the continuous writing and the attitude during the ransom negotiations indicated a degree of intelligence that one as a rule does not find

in this mental illness. The diagnosis was entertained for a short time and then discarded.

A diagnosis within the realm of possibility as applied to the writer of the notes was dementia praecox. This mental state usually has its onset in or after adolescence; its symptomatology, or rather the manifestations of symptoms, are exceedingly varied. For clinical simplicity, the illness is subdivided into several groups. Although one of the subdivisions may have symptoms which are characteristic of that particular group alone, there are many symptoms which are common to the other groups as well.

The diagnosis of mental disease provokes a great deal of discussion and difference of opinion on the part of the laity as against the psychiatrist. The laity does not accept the diagnosis of mental illness until the individual's acts are observed to be consistently abnormal or until some overt activity has definitely indicated to the non-professional person that the individual is sick. The psychiatrist, however, at the point at which the laity readily agrees with the diagnosis of mental disease, sees in it the complete, fully developed "textbook case" of the ailment. It is his function to make the tentative diagnosis of the ailment a long time before conduct has crystallized itself in such a manner as to make the mental illness obvious. In this way he may be better able to prevent the development of the final stages of the illness or the final overt asocial acts. It is a sad commentary that in our present-day civilization it appears that no diagnosis of mental disease is entertained until manifested by the overt asocial act.

With a knowledge of dementia praecox, I observed that the signs which had made me think of dementia paralytica could also apply to dementia praecox. In the latter illness also, an important symptom which may make itself known to the psychiatrist a long time before the full manifestations of sickness are exhibited is the feeling of omnipotence, of being all-powerful, with a belief that other individuals are preventing the patient from realization of his wishes and aims. These symptoms are usually observed in a person found to be basically inadequate as far as life is concerned. It is in this group that one finds a large proportion of maladjusted persons, including those who live an asocial existence.

The handwriting of dementia praecox cases shows some characteristic deviations, especially in the subdivision known as the catatonic type. This group, in the main, is characterized by the symptomatology common to the mental illness itself, with periods of excitement and stupor. In the period of excitement, serious crimes have been committed by patients. The handwriting of the person is very often surprisingly over-decorated with elaborate flourishes in the formation of letters. At times when one inspects a phrase, a sentence or a letter, it seems to have been written by two or more different individuals. Very often the inspection leads one to believe that the handwriting has been disguised. A rather common characteristic is a peculiar orthography in which the person seems to have a habit of spelling words in his own way. The omission of letters in the writing may also be observed.

An analysis of the handwriting of the ransom notes clearly indicated numerous examples of over-decorated letters that were used in various words. The "d's," the "p's," the "k's" and several other letters were examples of this. The peculiar spelling, rather consistent, such as the words *"singnature"* for "signature," *"lihgt"* for "light," *"rihgt"* for "right," *"hte"* for "the," *"note"* for "not," seemed to be characteristic of the writer. A gross inspection of the handwriting in general indicated that the style of the writer changed frequently and, whereas an expert in the detection of spurious documents may have considered it indicative of disguised handwriting, if one accepted the diagnosis of dementia praecox, an explanation for these striking variations was tenable. These signs in the ransom notes were enough to allow me to entertain the diagnosis that the writer was a case of dementia praecox not fully developed, or if he were of the catatonic type, it was possible for it to be an early manifestation of the illness. These same signs could also be observed in a patient during the stage of remission, the transitory well phase which is more or less common to this type of illness.

Elaborating the theory that the writer of the notes was subject to this illness, though with no definite proof for the contention, I attempted on the basis of the psychology of the illness to suggest the possibility of the age and physical characteristics of the person we were to seek.

Physical Characteristics

It was obvious that the notes did not give actual tangible proof of the age and physical characteristics of the writer. But on the basis of all that had already been postulated, I felt justified in an attempt to suggest the answers to these questions. I fully realized the difficulty of the task and was also cognizant of the natural resistance that the theory would set up in those who heard it. Often when one theorizes about a problem pertaining to a third person, it may strike the listener as being applicable to himself, and he therefore rejects the theory on an emotional basis. He "fights it off" not because of the faulty hypothesis, but in unconscious defense of himself.

Thus, I hesitated to give the age of the kidnaper although I personally felt certain of it beyond reasonable doubt. If the kidnaper were envious, if he resented the position of importance Colonel Lindbergh had attained, and if he reacted pathologically to all the qualities with which the world had endowed the person of the Colonel, then his age would bear the same relationship to the Colonel's as the age of a child bears to someone younger who holds the center of the stage while the older one seeks unconsciously to overthrow him. On this basis, the kidnaper would be just a few years older than the Colonel.

Practically the same method of reasoning could be applied to the possible physical characteristics of the perpetrator of the crime. On the assumption that he "saw himself" as Colonel Lindbergh, I was willing to postulate that he, in a general way, would be physically, anatomically, somewhat like the Colonel in appearance. And in an extreme application of this theory, I was also willing to state that he actually was in some way "inferior" physically and that this "inferiority" would manifest itself in his being somewhat shorter than Colonel Lindbergh. The construction of the ladder, in the distance between rungs, as well as the weight that it could sustain, seemed to corroborate the general picture of the man being tall, athletically built and agile. His occupation involved mechanical aptitude.

With the five questions answered, of nationality, residence, occupation, mental and physical characteristics, it was now possible

to summarize and give a synthetic picture of the man whom the police were to seek as the possible kidnaper of Colonel Lindbergh's child. I considered him to be a German, not very long in the United States, who still thought in his native tongue; his age would be approximately a few years older than Colonel Lindbergh and the physical characteristics would be somewhat similar. He would be poor, unmarried or married, and if married, he would be tyrannical and possibly childless; although he perhaps could number many women among his friends, his social life would revolve to a greater extent around men; he would be very methodical and extremely cautious, with full confidence in himself but no real confidence in those close to him; and this caution would make it very difficult to apprehend him since, considering everybody an "enemy," he would be constantly on guard.

On the basis of his personality it was possible to conceive that he may, at one time or other, have been in jail without his mental make-up having been recognized. This is a very common situation, for studies have revealed that in city penitentiaries men have repeatedly served sentences—in some cases more than twenty—without their mental status being determined. The fact that these men are potentially serious offenders is, as a rule, not recognized until some major offense causes them to be sent to a State penitentiary; only then, on the basis of past history, is the mental make-up of the criminal evaluated. Another possibility was that he may have had a period of institutionalization in a hospital for the mentally ill.

I was certain that he would always carry a ransom bill on his person; the conscious explanation would be that he was thus always ready when opportunity presented itself to convert it into other money. But I had more faith in the psychological reason than in the conscious one. I felt that this particular money would always be to his unconscious a symbol of power. I also knew that the unconscious plays strange tricks, and after a crime has been committed, the unconscious itself causes the individual to act in such a manner as to bring about detection. The carrying of the ransom bill in his pocket would at some time or other lead to his arrest. I concluded that in some particular situation his complete faith in himself would be the very factor that would unmask

him, and that when arrested, the ransom bill in his pocket would serve as the first important clue.

The New York City police adhered to these concepts. At one time, believing that the man lived in a German section known as Yorkville, or that even if he did not live there he would pass ransom bills there, they had perhaps forty men scattered in that section in a very well-organized plan that involved intensive search. If this search had been instituted with the same degree of efficiency in the area already noted as the possible residence of the kidnaper, the result might have been different.

From time to time conferences were held at which there was an exchange of opinion, especially when some of the ransom bills were passed and a description of the passer of the money was obtained which fitted our synthetic man. Finally, when the suspect was being watched, Finn insisted that he would have to be arrested out on the street because of the wish to find a ransom bill in his pocket. This was done, on the theory that if money were hidden in his home or some other place and could not be found, a bill in his pocket would be sufficient evidence at least to hold him for some time.

Immediately after the arrest, in a telephone conversation, Finn, very much elated, informed me, "This man fits into your picture. This is the parting of the ways. You, a doctor, a psychiatrist, are interested in saving a man. We, the police, are interested in hanging him."

III. FLEMINGTON

About sixty miles from New York City and twenty miles from Trenton, Flemington, the seat of Hunterdon County, seems much farther away from the turbulence of these two cities than the actual mileage indicates. Its inhabitants, numbering three thousand, possess an aloofness which gives to the town a tone of quietude, unmarred by hurried activity. Originally settled by the Dutch in the seventeenth century and later occupied by men of English and of German origin, Flemington today has few landmarks of its early settlement. The sparsely shaded streets are lined for the most part with Victorian frame houses among which are mixed nondescript buildings of a more modern era. The sole monument which recalls a distant age is the Hunterdon County Courthouse on Main Street, built in 1828. Its simple white stucco façade with four doric columns contrasts sharply with the squat red brick buildings which surround it. Directly opposite stands the Union Hotel, whose front porch, running the entire width of the building and decorated with a faded white Victorian trellis, overlooks the street.

With the removal of Bruno Richard Hauptmann to the Flemington jail, this little-known town became the object of wide attention. Before the trial opened on January 2nd, 1935, newspaper men hired all the available rooms at the hotel, the top floor being reserved for the jury. The problem of housing about seven hundred people who were expected to live in Flemington during the trial created an acute situation. Homes were rearranged, extra furniture was purchased and most of the private homes became boarding houses. Those of the prosecution unable to get quarters in the town arranged to stay at the Hildebrecht Hotel in Trenton, where a temporary broadcasting station was installed. Buses and private automobiles were commandeered to take witnesses and officials to and fro.

The residents of Flemington, although appreciative of the in-

creased expenditure of money in the town, resented extremely the fact that visitors were able to get into the courtroom and they were not. On the streets, one could overhear the erroneous contention that they were paying for the cost of the trial and were not allowed to participate; the State of New Jersey was defraying all the expenses. In the following elections these disgruntled citizens defeated for re-election all those whose positions during the trial had in some way to do with the allotment of seats in the courtroom!

Public

The public attitude toward the trial of Bruno Richard Hauptmann was widely decried as thousands gathered at Flemington to be on the scene of retribution. The narrow confines of the town made this crowd seem enormous, but the presence of these interested and curious persons was in no way relative to the magnitude of the crime. The spectacle of the public in Flemington, considered in the light of society's attitude toward one who has violated a basic taboo and committed murder, is comprehensible. In the not distant past, executions and tortures were the occasion for public holidays, serving as a catharsis for primitive emotions then but lightly veiled by the young structures of social restraint. Throughout the years, these structures have been growing, until today, when we regard our own society as a ripened intelligent civilization. With this evolution, the tenacious drive of primitive emotions has tended to lie dormant. But this quiescence of deeply rooted prejudices is, nevertheless, not stable, and though buried far beneath the surface of our society, can be quickly aroused.

The public interest in the commission of a violent crime is many-sided, depending upon the nature of the crime, the position of the person against whom it has been perpetrated, the criminal, and the ramification of the emotional factors. Crimes of passion revealing a perversion of normal impulses are productive more often than not of a more basic interest, as the maintenance of the correct social attitude is obtained at the cost of severe restraint and inhibition.

The first trial of Harry K. Thaw for the murder of Stanford White occasioned screaming headlines, lurid tales and extensive editorial comment. The courtroom was jammed, not only because of the social position of the principals and the impressive list of Social Registrites present, but also because of the nature of the reasons behind the shooting. The trial of Leopold and Loeb for the murder of little Bobby Franks, the trial of Ruth Snyder and Judd Gray for the murder of Mrs. Snyder's husband, the Hall-Mills murder case, all occasioned vehement expression of social indignation.

The kidnaping of Charles A. Lindbergh, Jr., however, fell into a different category. There, although the position of the father largely determined the sense of public outrage, the plight of the child touched people profoundly. Kidnapings of children are generally conceived to be more vicious than kidnapings of adults, because of civilization's respect for the child, who is defenseless and innocent.

Press

This crime by reason of the numerous circumstances already discussed, was one of most striking importance, not lessened by the fact that it occurred during a period which will ever remain notorious for its lawlessness. A people rocked by indignation needed to be aware of what was happening every moment, and it was this need which the Press filled, although not always in the most commendable manner. Therefore, one may say that the public got what it wanted but did not protest in sufficient number against what it was getting. This lack of public discrimination does not, however, mitigate the attitude of some newspapers which took undue advantage of the situation.

Those who criticized the emphasis laid on the trial by the Press failed to take into consideration that the first announcements of the crime originally occupied, even in the most conservative newspapers, a position usually devoted either to national or international affairs of serious import. Thus, it could hardly be expected that the trial of the perpetrator would be relegated to the back pages, and

it was natural that the amount of space devoted to the trial should equal, if not outdo, the space given to the original publication of the crime—even with the elimination of direct testimony transcripts.

The arrest of Bruno Richard Hauptmann on September 19th, 1934, brought the long hunt for the criminal to an end, and the public desire for retaliation acted as impetus to the Press. During Hauptmann's incarceration in the Bronx, newspapers printed a story of his attempt at suicide with a sharpened spoon. Thorough investigation completely refuted it. Probably the sole excuse for the story originally printed by the newspapers was the desire for a "human interest angle" on the defendant who was looked upon by many as a fiend.

Immediately after the arrest, a morning newspaper secured exclusive news of Hauptmann's side of the case in exchange for a sum to cover the cost of his defense. This arrangement continued during Hauptmann's custody in the Bronx, but meanwhile an afternoon newspaper, jealous of its rival's "scoop," took steps to displace it and finally succeeded in breaking that combination and dispensing with the services of James M. Fawcett, defense counsel. In this manner, control was obtained of all news emanating from the defense, which also included exclusive interviews with the defendant's family and attorneys. The legal angles on his extradition to New Jersey were prominently featured and, although law in itself is not usually considered an exciting topic, in this case it was not long before every man on the street could provide his neighbor with a dissertation on the legal technicalities involved.

Regardless of the basic public interest in the trial of Bruno Richard Hauptmann, there can be no doubt that the newspapers did practically all in their power to stimulate it and develop even further interest. With the announcement of his extradition, they began to formulate plans for the reporting of the eventual trial and its sidelights. Not before this trial had newspapers ever indulged in news items relating to their own business arrangements, but now the public was informed of what was being done for it, and these accounts, although printed in the news columns, were equivalent to advertising campaigns. Newspapers outdid one another in the elaboration of details which would bring to the

reader a complete account of what was to take place in Flemington. As the date of the trial grew closer, much prominence was given to the fact that well-known fiction and feature writers were being engaged to give their versions of events. These purveyors of sentimental drivel were hired not only by those newspapers with which such practices were customary, but by the most conservative, which had previously ignored such communications.

The problem of news-gathering was heightened by the need of supplying not only the United States but nations throughout the world. In the Hunterdon County Courthouse, every inch of available space was utilized for the sending of news by wire and cable. A month prior to the trial, preparations were begun and the town of Flemington was swathed in hundreds of wires. Various newspapers established branch offices in Flemington, to be better able to function. A great part of the seats in the courtroom were allotted to newspapermen, and special correspondents sent from foreign countries were numerous. Lionel Shortt of the *London Daily Mail* said:

> All England and the rest of the Empire is in a kind of frenzy over this trial. It is regarded in my country as the news story of the century. Readers are seizing upon every word of it, and our papers take almost anything we can send. We have, of course, a large circulation in Scotland, and both England and Scotland are interested in Betty Gow, who was the nurse of the Lindbergh baby and who has returned to this country for the sole purpose of testifying in this trial. . . .
>
> The English, I think, are more tenacious of their popular idols than Americans, and anything that touches Colonel Lindbergh as closely as this trial is highly important news in all England—indeed, throughout the United Kingdom.[1]

These technical preparations, accepted as a matter of course in metropolitan courts, were described at length in the Press solely because the Flemington Courthouse, in a rural district, was not prepared as a base station for the world-wide distribution of news.

The obstacles encountered in the reporting of the trial were major, as it was an arduous task to maintain a perspective in regard to the various facets of the testimony. The difficulty of gauging the value and significance of certain aspects of it gave rise frequently not only to misinterpretation, but to misplaced emphasis. When the prosecution declared that it had witnesses to prove Hauptmann's presence in Hopewell in contradiction of his contention that he was not, one newspaper ran a front-page story with pictures of a man resembling the defendant, who was to testify that it was he who was in that locality. This story ran for one day and the man concerned never appeared in court. With Hauptmann's denial that he built the kidnap ladder, there appeared an account of the name and address of the man who did so. But this at no time became part of the testimony. These and other similar stories were all treated as fact along with the official testimony and gave rise to fallacious concepts. Thus, the accounts were often blurred, as many reporters failed to distinguish actual testimony from rumor of what was to take place and anticipatory remarks of counsel during Press conferences. Stories were also commonly distorted in supplying the demand for sensational copy.

Seeking still further to satisfy what they took to be the inclination of the public, the newspapers devoted considerable space to the opinion of writers whose job it was not necessarily to convey what was happening, but their reaction to it. This highly personal journalism brought in its wake a deluge of impressions more frequently erroneous than correct, and more frequently fiction than truth. It was this group, more than any other, which was directly responsible for the comments directed against the conduct of the Press.

Although there were not more than about seventy-five unofficial visitors in the courtroom at one time, some news services and independent newspapers thought it of sufficient news value to have special reporters on the scene to write about the presence of certain "celebrities," who were distinctly in the minority. Feature writers thought it important to describe their wearing apparel, despite the fact that the maximum number of mink coats seen in the courtroom on any one day was perhaps eight or ten. This style chatter informed the world that the courtroom was filled with expensively clothed women, and the actual drama was ignored.

One feature writer described a day in the courtroom as though

[1] *The Lindberghs*, by P. J. O'Brien. International Press, 1935.

she were visiting a superlatively important social event of the year. She said: "All the mink coats were saying to the Saville Row topcoats and burgundy mufflers, 'Hel-lo darling! How are you! Isn't this divine? Isn't it wonderful!' "

As one who was very much interested in all phases of the crime, the trial and the setting in which the trial was held, I spent considerable time in observation, and at no time overheard any such conversation. Granting her description, it was certainly more the exception than the rule, and yet articles of that type appeared in one of our most conservative newspapers.

In short, the gross reporting of the trial did not truly convey what happened in the Hunterdon County Courthouse; too many columns were devoted to fanciful accounts which not only blurred public understanding but also gave rise to false impressions. The faithful objectivity of "regular" reporters was almost entirely negated by the avalanche of trash from the hands of those whose peregrination to Flemington was the apparent signal for the suspension of good taste and judgment. Alexander Woollcott summed up this unfortunate condition when he said: "It has been my experience that those who volunteer with the greatest assurance what they think as to the guilt or innocence of Bruno Hauptmann are more often than not persons who, as far as an onlooker can judge, have yet to give the first outward sign that they can think at all." [2]

Radio

The radio presentation of the events of the Hauptmann trial fell into the same pits as the Press when it came to the broadcasting of comment not exclusively news. The regular news commentators who were in daily attendance at the Flemington courthouse gave, in the main, objective recitals of what took place, in a supposedly accurate manner. The inaccuracies which occurred in their reports were the results of the difficulties they encountered as reporters, and they were subject to the same traps which beset the newspaper men. However, the Radio like the Press, committed

[2] *New York Times*, January 26th, 1935.

serious blunders by its extensive use of commentators who indulged solely in their own versions of events.

One commentator, who only occasionally appeared at the trial, made much of what he termed the "ballyhoo" at Flemington. He, perhaps to create this ballyhoo or to convince himself of its existence, one day during court recess took a disconnected microphone into the courtroom and was photographed while speaking into it, as though he were broadcasting from one of the best seats in the courtroom.

There was one group of non-professional radio commentators for which there is very little excuse. It was solely because of their individual professions that they were felt to be qualified to express opinion. These individuals, hardly if ever present in Flemington, and basing their information almost solely on what they gleaned from the Press, mostly indulged in dissertations on various aspects of the trial, and served thereby as vehicles for the promulgation of doubly erroneous information and impressions.

IV. PERSONALITIES

Justice Thomas W. Trenchard

With a distinguished record of many years as a jurist of unchallenged reputation, Justice Thomas W. Trenchard brought to the Hauptmann trial deep human understanding and notable legal experience. Not only were his knowledge and administration of the law attributes without question, but his impartiality and fairness in the conduct of a trial were preëminent characteristics. Always courteous to lawyers before his court, he was known to allow defense attorneys to present evidence without curtailing its admission by excessive technical interpretation of the law.

His bearing in the courtroom bespoke a quiet dignity. He acted the rôle of judge with a sympathetic benevolence, contrasting sharply with the despotic air assumed by judges who take the courtroom as their private domain to be ruled with a firm and unquestioning hand. His kindliness and thoughtfulness for those before his court were clearly illustrated in his conduct of the trial. The health and comfort of the jurors were his concern, and his attitude towards them was paternal. One day he made a surprise visit to the hotel where they were quartered to see if they were properly dressed for the severely inclement weather. When upon inspection he found one of the jurors lacking rubbers, court was delayed until the juror was outfitted.

This paternal attitude was maintained toward the attorneys for whom he also manifested consideration. He cautioned them about taking care of their health, which was subject to attack by the severe cold, snow and rain, and when informed of illness, the court was readily adjourned for the week-end. If any attorney were coughing, the judge interrupted the testimony and gave him one of his own lozenges. When the air in the courtroom became unduly

stuffy, he ordered a recess and personally directed the method of ventilation.

His equanimity was sustained throughout the trial and his patience in dealing with arguments among counsel was noteworthy. Not once during that lengthy procedure did he evince any intolerance in regard to the presentation of evidence, some of which was highly repetitive.

Much has been said and will be said about his charge to the jury. From a strictly legal view, there can be no attack on his interpretation of the law and its application of the evidence. It has been subject to review by the highest courts and found to be a truly legal presentation. This was not strange, nor wholly unexpected, as throughout the career of this septuagenarian he has never been reversed in any case involving the extreme penalty.

Counsel for the State

Counsel for the State of New Jersey: David T. Wilentz, Attorney General of the State of New Jersey; Anthony Hauck, Jr., District Attorney of Hunterdon County; Assistant Attorney Generals Joseph Lanigan, Robert Peacock, Richard Stockton III and Special Assistant Attorney General George K. Large.

DAVID T. WILENTZ

Attorney General David T. Wilentz had never acted, nor was he even interested, in his position as a prosecutor in criminal cases. Also, he is personally opposed to capital punishment. However, in the prosecution of Bruno Richard Hauptmann, Mr. Wilentz triumphed over his personal feelings and in the presentation of his case was extremely careful in personally sifting the authenticity of the evidence given him by the police.

Young in years for the appointment, Attorney General Wilentz continued in office when Governor Harold G. Hoffman, a Republican, replaced the former Democratic Governor A. Harry Moore. As preparations for the trial had already begun, he was cognizant of all pertaining to it. His experience as a prosecutor

was not varied and extensive, but his knowledge of the law was sound and intelligent. His versatility in voice, gesture and mannerism stood him in good stead as he made his plea to the jury. He also made strategic use of these physical characteristics in the handling of witnesses. He could be courteous, gracious and humble, or brusque, sarcastic and aggressive. Jealously guarding his position of trust as an officer of both the State and the Court, he maintained his responsibilities with dignity. He persistently refused to take advantage of his position in order to gain admission to the courtroom for friends and relatives.

His conduct during the course of the trial repeatedly exhibited proof of his tolerance, and the opprobrious term of "persecutor" could in no way be applied to him. He did not harass his witnesses on cross-examination, and gained rather than lost by his graciousness.

A review of the testimony revealed that the Attorney General allowed the defense to include, at times, extra-legal testimony, which lawyers criticized him for not having aggressively prevented. However, prior to the trial, Mr. Wilentz definitely planned, as far as possible, not to interfere in any way with defense counsel. He felt certain that the State's evidence proved Hauptmann's guilt beyond a reasonable doubt and that his case was not subject to serious attack by the defense. In view of the importance of the case, he thought it advisable not to have the records spread with objections, thereby minimizing grounds for a subsequent review and possible reversal of verdict. Believing in the strength of his case, he did all in his power to prevent its being won on a legal technicality. Thus, from a strictly legal angle, he may be criticized, but the effect of his attitude on the jury was of utmost value. His sureness in conducting his case conveyed itself to the jurors and even Justice Trenchard must have been aware of it, because when at one time Mr. Wilentz deviated from his usual procedure, the Court called his attention to it and reminded him not to make use of a technicality in an argument.

The Attorney General throughout the trial was very conscious of the importance of psychology in the examination of witnesses. In fact, at one time, when we disagreed on the psychology involved in the examination of an important witness, he facetiously stated,

"If I lose the case can I tell the world that it was because of psychology?"

In his examination of the defendant he was too aggressive at first. But although insisting upon relevant answers and frowning upon deviation, he was free from personal animus. He informed the defendant that when he completed his questioning he would allow him all the time he needed to address the Court and jury in regard to anything which might require further explanation and he would not hinder any such recital.

Mr. Wilentz' Press conferences were held almost every evening, at which time he named contemplated witnesses for the following day but withheld their testimony. He would also evaluate the evidence already presented, and pay tribute to the efforts of his associates.

His assumption of the rôle of prosecutor in this case was an unwilling task necessitated by Hunterdon County's lack of funds to defray the expenses of the trial. According to the Constitution of the State of New Jersey, the State takes over the County's function at such a time. Thus, it was not a case in which the County prosecutor was superseded by the State on the grounds of incompetency.

ANTHONY HAUCK, JR.

Anthony Hauck, Jr., the local District Attorney, was coöperative, sincerely loyal to his chief and in no way resentful of being supplanted by the State. After the trial, when engaged in an exchange of words with Governor Hoffman, who accused him of having been the Attorney General's errand boy, he replied that he much preferred that rôle to "errand boy of a murderer."

GEORGE K. LARGE

George K. Large, practicing lawyer of Flemington and former judge, was chosen for the prosecution staff for a tactical reason. His position in the community was such that his connection with the prosecution would be evidence to the jury that the County was not being invaded by outsiders. A more subtle motive was that

his presence in the courtroom on the side of the State would influence the jury, who knew and respected him.

Counsel for the Defense

Counsel for the defense: Edward J. Reilly, C. Lloyd Fisher, Frederick A. Pope and Egbert Rosecrans.

EDWARD J. REILLY

Edward J. Reilly, practicing lawyer of Brooklyn, New York, with comprehensive experience in criminal cases, headed the defense legal staff. His reputation was that of an exceptionally shrewd cross-examiner, able to use legal technicalities with a cleverness which more often than not turned the case to the advantage of his client. Coupled with this facility to take refuge in the tangled jungle of the law, was his awareness of human reactions in the courtroom. His was the emotional approach; he blustered, sentimentalized or grew crudely sarcastic; his manner on cross-examination was antagonistic, his attempts at flattery puerile. He was not equipped to be tactful. Mr. Reilly's most valuable asset was his ability to appear triumphant despite his opponents' victories. He gave no indication that anything that happened affected or injured his case in any way. He looked successful in order to convince his audience that he was. His reputation as a sharp-witted lawyer was not fully proved at the Flemington courthouse. In the conduct of this case there were glaring examples which negated his perspicacity.

In his cross-examination of the father of the dead child whose alleged murderer he was defending, the following question allows for various interpretations:

> Q. Now did you at any time go to any of the windows of that house to indicate that you were in that particular room? . . . Did you show yourself at any particular window?

One possible interpretation inherent in the wording was that Colonel Lindbergh deliberately showed himself to someone for

some purpose. If one of the jurors also came to that conclusion, it must have created in his mind a distrust and distaste for such a method of cross-examination.

Mr. Reilly did not keep it a secret that he did not consider Dr. Condon a truthful person, or that in order to free his client it was necessary to attack the credibility of the educator. Dr. Condon, in recalling the events of a certain day, stated, "I can truthfully say. . . ." Such a statement on the part of a witness after hours of testimony was open to a strong attack. This psychological slip offered Mr. Reilly an excellent opportunity to challenge the truthfulness of Condon's previous statements. Also, Mr. Reilly in handling Dr. Condon attempted to match wits with him and in so doing frequently lost a good chance for further investigation. Once he asked Dr. Condon to write his signature and the doctor complied, saying, as he handed it over to Reilly, "That is my bank signature." Mr. Reilly, thinking this comment called for a facetious reply, said it was safe with him. Right there he had an excellent opportunity for further examination about other signatures. Had he taken his advantage, he would have opened the door to a series of questions which would have elicited Dr. Condon's eccentricities.[1]

As a stranger given courtesy to practice before the New Jersey Court, Mr. Reilly showed poor judgment in casting aspersions on the efficiency of local police procedure and comparing it with the ability of the New York police during the examination of Trooper Kelly's method of fingerprinting. Hostility must also have been evoked immediately in the minds of the jurors when, in the cross-examination of Colonel Lindbergh, Reilly by the form of his questions implied that "natives" might have kidnaped the child because Colonel Lindbergh in landscaping his estate had cut off access to woods which they previously had used.

Reilly tried the case as though he were playing a game, and he was so objective in his handling of Hauptmann that the defendant, as a person, seemed not to exist for him. In conferences with the Press, Mr. Reilly did not hesitate to discuss freely the evidence

[1] Dr. Condon had signed published articles and verse with such signatures as: P. A. Triot (Patriot); L. O. Nestar (Lone Star); J. U. Stice (Justice).

he was to present. His statements in regard to such evidence were rarely, if ever, borne out by presentation in court. At times he spoke of naming the kidnapers but never did so.

In contrast to the Attorney General's attitude, he availed himself of every opportunity to admit friends to the courtroom. Sheriff John H. Curtiss at one time stated that the presence of so many visitors in the courtroom was occasioned by Mr. Reilly's issuance of summonses to a number of persons on the pretext of securing their admission as witnesses.

C. LLOYD FISHER

C. Lloyd Fisher, Flemington attorney, was thoroughly familiar with all the ramifications of the Lindbergh kidnaping case. Before he undertook the defense of Hauptmann, he defended John Hughes Curtis at the Hunterdon County courthouse. Well versed in law, but not experienced in the practice of criminal cases, he took a subordinate position during the conduct of the Hauptmann trial. It was only after the trial that he emerged as the defendant's sole champion. Throughout the trial his attitude toward Hauptmann bespoke personal conviction of his client's innocence. He was solicitous, courteous, friendly and ever quick to protect the defendant's position. In following the examination of witnesses, he was prompt to take exception, and on occasion differed openly with his chief's opinion on the proper conduct of the case. When at one point in the presentation of testimony Mr. Reilly conceded the body of the baby found on the outskirts of Hopewell to be the Lindbergh baby, Mr. Fisher, emotionally affected, was heard to say, "You are conceding Hauptmann to the electric chair." He was so disturbed that he hurriedly left the courtroom.

In his examination of witnesses, Mr. Fisher was relevant but tactless and frequently lost his temper; he was sarcastic on occasions without cause. In arguments with his opponents, he lacked graciousness and was quick to take umbrage at what was said. Until the day of Hauptmann's execution, he fought tirelessly for his vindication and seemed to sustain a personal loss in the death of the man whose championship was to him a battle of deep significance.

FREDERICK A. POPE

Frederick A. Pope, whose vast legal experience was gained solely in rural districts, used his country gentleman's knowledge to its fullest capacity. He spoke authoritatively about trees during wood testimony. His hobby was wood, and he lost no opportunity to display his information. The argument over the admission of the ladder in evidence brought him to the fore. He was pompous and loquacious and frequently seemed at a loss whether to continue or remain silent. In his dilemma, he would stand before the court smug and smiling bewilderedly, until Justice Trenchard would ask if he were through. When he objected to portions of the testimony, he became enmeshed in his own loquacity, and when censured by the Court, graciously accepted the ruling; but he gave the impression, nevertheless, that he was correct. In examining witnesses, he seemed unable to terminate his questions, thereby very often weakening the defense's position.

He had the bearing of the landed gentry, and he took his participation in court seriously. During the first days of the trial, impressed with the dignity of the occasion, he dressed in formal afternoon clothes. After hearing pointed comment about his apparel for days, he chose less formal attire.

EGBERT ROSECRANS

Egbert Rosecrans was ostensibly present as an authority on the law. He was mainly concerned, however, with the proper pronunciation and spelling of his name. He took the newspapers severely to task for misspelling it and supplied them with his family history to prove authority for his spelling. At the close of the State's case, in an exceedingly unemotional manner and in a voice which carried no conviction, he made a series of formal motions for the dismissal of the case.

The Jury

Much comment has been directed against the intelligence of the jurors. Those from whom it has stemmed have exhibited a startling

ignorance in differentiating between formal education and native intelligence. These Hunterdon County residents, typical of their rural district, brought to the trial a heritage of shrewd perception of the elemental factors in daily existence. The absence of higher education in some instances was more than offset by the possession of qualities perhaps more important than formal schooling. Theirs was a knowledge and wisdom based on the necessity of achieving an adjustment to the conditions of rural life, more rigorous than those which confront the city dweller, and requiring a more basic personal independence.

As they took their seats in the jury box, though cognizant of the prominence of their position, their stolid faces were free from expressions of personal importance. They were a group whose daily conflicts had taught the sagacity of hiding personal feelings. It may have been this characteristic, predominant throughout the trial, that gave rise to the widely spread erroneous comments. The misinterpretation of these personalities was based on lack of comprehension of capable intelligence.

The following is the list of jurors in order as selected:

CHARLES WALTON, SR.—Foreman of the jury; fifty-year-old machinist who for the past twenty-five years has worked for one concern; at one time, he was a semi-professional baseball player; father of three grown children.

MRS. ROSIE PILL—Fifty-five-year-old widow with two sons and two grandchildren.

MRS. VERNA SNYDER—Thirty-six-year-old wife of a blacksmith and mother of an adopted child.

CHARLES F. SNYDER—Forty-year-old farmer; father of two children; not related to Mrs. Verna Snyder.

MRS. ETHEL STOCKTON—Thirty-two years old; stenographer in the office of a former district attorney; mother of a seven-year-old child; not related to Mr. Stockton of State's counsel.

ELMER SMITH—Forty-two-year-old salesman for an insurance agent; father of three-year-old son.

ROBERT CRAVATT—Twenty-eight-year-old educational supervisor at the High Bridge Civilian Concentration Camp; unmarried.

PHILIP HOCKENBURY—Fifty-eight-year-old railroad worker; father of a grown family.

GEORGE VOORHEES—Fifty-four-year-old farmer; father of three young children.

MRS. MAY F. BRELSFORD—Thirty-eight years old; stepmother of two children.

LISCOM C. CASE—Sixty years old; retired carpenter.

HOWARD V. BIGGS—Fifty-five years old; unemployed bookkeeper.

V. THE STATE OF NEW JERSEY VERSUS BRUNO RICHARD HAUPTMANN

Selection of the Jury

The trial of the State of New Jersey versus Bruno Richard Hauptmann opened on January 2nd, 1935. The courtroom was crowded with newspaper reporters and the special panel of jurors. There were very few visitors. Immediately after the court convened, the clerk called the names of the jurors of the special panel. Wilentz then formally moved the trial of the State against the defendant. In response to the Court's question, Reilly replied that the defense was ready. Defense attorneys suddenly realized that Reilly had not been granted the courtesy to practice before the New Jersey courts. After a formal motion by Rosecrans, Reilly was granted this privilege. Arrangements were concluded as to the procedure to be followed in the examination of jurors. The prospective jurors were alternately examined by the State and the defense. The questions propounded were somewhat similar in each instance and are best illustrated in the examination of Charles Walton, Sr., who was selected as the foreman. Mr. Fisher conducted the examination:

Q. Mr. Walton, are you married? A. Yes, sir.

Q. And do you have a family? A. Yes, sir.

Q. What? A. Four children: three boys and a girl.

Q. How old is the youngest child? A. Nine.

Q. Have you formed any opinion as the guilt or innocence of the defendant in this case? A. Not exactly, no.

Q. Have you read the Winchell column in the *Daily Mirror*?[1] A. No, I haven't.

[1] Walter Winchell, newspaper columnist and radio commentator, for many months prior to the trial had frequently mentioned the Lindbergh-Hauptmann

Q. Or heard his broadcast? A. Well, occasionally.

Q. And from what you have heard in his broadcasts, you have formed any opinion? A. No, not necessarily. No.

Q. Do you feel, Mr. Walton, if you were permitted to sit on this jury that you would be guided by the evidence and render a fair verdict in accordance with the evidence as presented to you? A. Yes, I would, sir.

Q. And do you understand that rule of law that the defendant is innocent until he is proved guilty beyond a reasonable doubt? A. Yes, sir.

Q. And would you be willing to give him the benefit of that reasonable doubt? A. Yes, sir.

Q. Did you receive this so-called pamphlet, *Criminal File*,[2] No. 2310? A. I did.

Q. And did the receipt of that alter your opinion one way or the other about the case? A. No.

Q. Have any threats of any kind been made to you in connection with the probability of your serving on this jury? A. No.

Q. You are in a position that you can dismiss from your mind entirely anything that has gone along heretofore; is that correct? A. Yes, sir; yes, sir.

Fisher: You may examine.

Hauck:

Q. Mr. Walton, have you any conscientious or religious scruples against capital punishment? A. No.

Q. I understood you to answer Mr. Fisher in the beginning of his examination as to whether or not you had formed an opinion that you said not exactly. A. Well, not to any extent, not more than anyone else would that read the paper.

Q. In other words, even though you might have been affected in

case. His various sources of information were authentic and he had expressed his personal opinion that Hauptmann was guilty. All jurors were asked this question because it was felt that they might have been aided in forming an opinion by listening to the radio or reading his column.

[2] This referred to a pamphlet satirizing a fictional case in which an aviator's child was kidnaped. Prior to the trial, it had been mailed to the jury panel and various other people in Flemington. The prosecution, after a conference with the defense, concluded that it in no way would influence a prospective juror. Prior to this conclusion there had been rumors that on the basis of circularization of this pamphlet a change of venue would be necessary.

some small manner, you could be guided by the evidence and by law as charged to you by the court solely? A. Yes.

* * *

When court adjourned at the end of the first day, ten jurors had been selected. On the morning of January 3rd, the jury was completed and Wilentz addressed the Court and the jury:

The State's Case

Opening Address of Attorney General Wilentz

"May it please your Honor, Mr. Foreman, men and women of the jury:

"A Grand Jury that was composed of citizens of this County has returned an indictment charging that Charles A. Lindbergh, Jr., was murdered. It is the law, men and women, as will be pointed out to you by the Court, that where the death of anyone ensues in the commission of a burglary, that killing is murder—murder in the first degree.

"It is also the law, as the Court will point out to you, that if a person in the murder is feloniously stricken in one county, that is, the blow is given in one county, but death ensues in another county, notwithstanding the fact that the death ensues in the other county, it is murder in this county if the felonious striking took place here, or if the death occurs here.

"I just point that out to you, not that I expect it will have any particular effect, because we are going to prove that not only the striking but the death took place in Hunterdon County.

"Now, on the first day of March, 1932, the State will prove to you that a very distinguished citizen of this country was a resident of Hunterdon County and on that day the household, the Lindbergh household, consisted of Betty Gow, Mr. and Mrs. Whateley, Colonel Charles A. Lindbergh, his wife, and their only and infant son, who was twenty months of age, I think it was, twenty months old or young. The child was a happy, normal, jovial, delightful little tot that age—blue eyed, curly headed, blond haired. He had been playing around that entire day with the family, and on the

night of March 1st, 1932, that child was killed; and the State will prove to you jurors that the man who killed and murdered that child sits in this very courtroom—the gentleman in the custody of the Sheriff's guards right in the rear of the distinguished members of the Bar who make up the defense counsel.

"This crime had been planned for some time. This defendant Hauptmann had conceived this plan and had undertaken it, had plotted it, prepared it, and we will show you that by the fact that he was in and about the vicinity of this Lindbergh home on many occasions before as well as at the time of the crime.

"He came there with his ladder, placed it against that house. He broke into and entered at night the Lindbergh home with the intent to commit a battery upon that child and with the intent to steal the child and its clothing. And he did. Not only with the intent, but he actually committed a battery upon the child and did steal it and did steal its clothing. I will refer to its clothing and its stealing a little while later.

"Then as he went out that window and down that ladder of his, the ladder broke. He had more weight going down than he had when he was coming up. And down he went with this child. In the commission of that burglary, that child was instantaneously killed when it received that first blow. It received a horrible fracture, the dimensions of which when you hear about it will convince you that death was instantaneous.

"Getting down there he took the ladder and about seventy feet away the load was too heavy. In the one hand he had the ladder and in the other he had this bundle, this dead package to him. The ladder was of no particular use to him. He abandoned that. Then he proceeded on his way until he had gotten about a half mile, the child dead. Knowing it was dead, he wasn't a bit concerned about it and there, three thousand or more feet away and still on the Lindbergh estate, he yanked and ripped the sleeping garment of that child off its body. Though it was cold and raw, he yanked and ripped that sleeping garment off that child, because he didn't need the child, as we will show you, he needed the sleeping garment.

"Then, of course, at the very first convenient spot, some few miles away, he scooped up a hastily improvised and shallow grave and

put this child in face downwards and on he went on his way to complete the rest of his plans in this horrible criminal endeavor.

"Well, pretty soon, about ten o'clock, the Lindberghs found out that their child was missing—and you can, of course, imagine the excitement, you can imagine how hysterical some of the members must have been—and the first thing, as soon as Colonel Lindbergh heard about it, he immediately asked Whateley to call the police, and then he grabbed his rifle and went through the woods, and up and down the roads, while Mrs. Lindbergh and the rest of the family looked through closets, looked here and there, looked through places they knew the child would not be, but just looked, in the hope that springs eternal in the human breast; and then of course the world knew.

"Of course, they didn't know their child had been murdered. There was left a note in the room by the defendant, and that note indicated that the person responsible for this crime would get in touch with the Lindberghs again in a few days. And he did.

"He wrote Colonel Breckinridge and in a few days after crying to Colonel Breckinridge, the world having become aroused, a very distinguished and aged educator and scholar and teacher in the Bronx, in a desire to serve society and in a desire to serve the Lindberghs, inserted an advertisement in the *Bronx Home News*, and that advertisement Mr. Hauptmann answered. He said, 'We will take you, Condon, we will take you as the intermediary.'

"We will show you that this defendant Hauptmann personally delivered a note to a taxi driver and said, 'Take this down to Condon's home, down where Decatur Avenue is.' That note was not mailed, that note was delivered and delivered for a purpose, because in that note he gave Condon, I think it was three-quarters of an hour, to get to the place to meet him. The aged gentleman went down there to Woodlawn Cemetery and on the inside of the cemetery was Mr. Hauptmann on the inside of the gates and Condon there on the outside until Hauptmann, becoming alarmed because somebody was coming somewhere in the distance, scaled and climbed a nine or ten foot cemetery gate and then jumped down, ran across the street to a park there. And finally, when he realized he wasn't being followed by police, but only had this aged man to contend with, he stopped and there they talked. They

talked for an hour and ten or an hour and twenty minutes, and in that talk this defendant said, 'Will I burn if the child dies?'

"Oh, he tried to sell Condon the idea to give up Lindbergh's money without seeing the child, and Condon had no authority.

"The doctor said, 'Please let me see the child; take me as a hostage; don't worry, I can't do anything to you. Just let me see the child so I can tell Mrs. Lindbergh I saw it. You can keep me there until the money is paid, if you want to.'

"'Oh,' he said, 'No. 1 would smack me out; No. 1 would smack me out.'

"And so finally Hauptmann says, 'Doesn't Lindbergh know we are the people that kidnaped his child? Doesn't he know we are the right people? Doesn't he see the symbol on the note, the two circles with the big red circle in the center and the holes? If he doesn't, and that isn't enough, we will send him the baby's sleeping garment. We will send him the baby's sleeping garment.'

"And it took them two or three days to send it. I suppose he had to have it washed.

"And then within a few days, while Colonel Breckinridge was at the Condon home, he had been there every day since the day Condon received the first message, while Colonel Lindbergh was there, that sleeping garment came in the mail from Mr. Hauptmann, with his circles and with his holes, as positive proof that it was him. And then Hauptmann says, 'Now, no more terms. The Lindberghs don't see this child until they put up the money; and if you don't take those terms we can wait. Lindy has got to come to us. We can wait; but if he waits until after April 8th the price is $100,000—it is $70,000 now.'

"And so, finally, here at this Condon home in the Bronx—all of this thing taking place in the Bronx—right alongside of Hauptmann's back yard, waiting there, finally Jafsie answered for Colonel Lindbergh, 'The money is ready, we accept'—'We accept, the money is ready.'

"And so on Saturday, April 2nd, $50,000 prepared for Colonel Lindbergh was bundled into a box. Oh, I have got to tell you about that box. Why, the carpenter put a picture of the box in his notes. He not only put a picture in it, he gave you the dimensions—six by seven by fourteen—in his own handwriting. He told them

how to bundle it up, he measured it, mind you, in his own imagination and there he put this picture, in this note, of this box with the dimensions.

"Why, he might just as well have put his picture in there. And so, they prepared a box, put the money in the bundle and then along came another messenger on a Saturday night and said, within three-quarters of an hour you come here or you come there, and of course they did. Well, you can imagine, you can imagine the condition of Colonel Lindbergh then. There he was about to get his child. He only needed the money, and he had that money to give up, it was all prepared. And so, he said, 'I will go with you, Dr. Condon,' and Colonel Lindbergh drove that little automobile on that night with Condon to follow the directions to a greenhouse and there they would turn over a stone and under that stone they would get further directions, and they did.

"And Condon lifted up that stone or table or whatever it was and there it was, 'Cross the street and go to Whittemore Avenue,' or something like that.

"He showed it to Colonel Lindbergh, and they did that. Right across the street he had picked out another cemetery for his next meeting place. And there was Condon in the middle of the road.

"Now don't imagine that that particular section of the Bronx is any more populated than it is right here in Flemington, and particularly in the vicinity of the cemetery.

"And there stood Condon waiting to see where Hauptmann was. Finally Hauptmann hollered, 'Hey, Doctor, hey Doctor,' twice.

"In the still of the night you could have heard it for two blocks and particularly in the vicinity of the Bronx. So finally Dr. Condon went down, followed him along, he on the inside of this St. Raymond's Cemetery, Condon on the outside, until they got to a hedge. And as they got down to that hedge Condon said, 'Won't you please let me see the baby first?'

"'Now, no use about that.'

"Well you know in 1932 times were awfully bad, even for Colonel Lindbergh; $70,000 was a lot of money. He wanted $70,000 then.

"'Won't you please cut it down to $50,000? That is all we ask.'

"'The boss said yes; I will cut it down to fifty.'

"So Dr. Condon said to him, 'Now here, after all it is just you and I. Now give me a receipt, give me the directions where we are going to find the child.'

"He said, 'All right, all right. You go back. Who is over there in the car with you?'

"'Colonel Lindbergh.'

"'Is he there?'

"'Yes, Colonel Lindbergh is there. He has got the money.'

"'You go back to Colonel Lindbergh and you get the money and we will meet here in five minutes and I will give you the directions.'

"He wasn't worried about being apprehended. He was relying upon the word of honor of Colonel Charles A. Lindbergh that all he wanted was his child. Not only that but he actually had followed and traced Condon—we will prove it to you—to see that he wasn't being accompanied by detectives. He knew he was taking no chances, that he wanted the child, that was all. So he went back somewhere and he wrote a little note and he came back. And there over that hedge he received that box with $50,000.

"What do you think he said? 'Wait a minute, doctor, until I see if it is all right. Wait a minute.'

"Then he dipped his hand into this box and up he looked at Condon and he said, 'Your work is perfect.' Shakes hands with him. 'Your work is perfect.'

"So within two hours in accordance with instructions given by Hauptmann they looked at this note and the note directed them to go up to some place in Massachusetts, Bay Head, I think it was.

"Colonel Lindbergh, Dr. Condon, Colonel Breckinridge, and a representative of the United States Government got into a plane. And Lindy who could find a speck at the end of the earth couldn't find his child because Hauptmann had murdered it. Up and around the waters he searched and returned. Up again in another plane he searched and he returned, and of course finally back home. Breckinridge still stayed at Condon's home, still stayed there with Condon. Condon began in the papers to advertise for better instructions. But Mr. Hauptmann was no longer interested in Dr. Condon and no better instructions came.

"Not only did Colonel Lindbergh with the men who accompa-

nied him as I indicated a minute ago search for this mysterious and mythical boat but the Coast Guard of the United States went out too to try to find it. Of course it wasn't there. When he took that $50,000 across the hedge of that cemetery he took it knowing that that baby was lying face down in that grave in New Jersey. We will prove that.

"So back again to New Jersey for Colonel Lindbergh and to the home of sorrow. Then on May 12th, on May 12th, 1932, some colored gentleman, driving along the highway, got off the beaten path of the road and into a woods, to answer the call of nature—or whatever it was—and there he was horrified by the sight of what appeared to him to be the body of an infant; and of course he rushed away, but not until he had told somebody about it; and pretty soon, pretty soon, Colonel Lindbergh and Betty Gow and others had turned the body of that child up, face up. The moisture in the ground had still preserved the face a little bit, so that it was white when it was turned up, and twenty minutes after the air struck it, it had turned black.

"The body was horribly decomposed; one leg had been eaten away and carried away, one hand had been taken away, a great part of its body had been eaten away, the rest of it decomposed, the skin, the flesh, rotted away, in that hole, the grave that Hauptmann had placed for it.

"But there was that little sleeping shirt that Betty Gow had prepared and that Mrs. Lindbergh had helped her prepare that day; there was the forehead and the brown curls and the curly-headed prominent forehead under the blond hair; there was that typical nose, and there were the toes overlapping, the overlapping toes of the Lindbergh child.

"Anybody that knew that child, any member of the family, would know right away that was the 'Little Eagle,' and so of course they took the child and cremated the body and the ashes were delivered to Colonel Lindbergh.

"The Lord moves in a mysterious way his wonders to perform, as you well know, and the first thing you know a little gas-station attendant in the Bronx found the man that murdered the Lindbergh child. He came there with a ten-dollar bill, he had to get rid of the money. He came there with a ten dollar bill; it was

a gold note, and the station attendant who was taking money all day long hadn't seen much of that lately, because the President of the United States had called that gold in and it was against the law to have it and to hoard it. He said to Hauptmann, 'What about this, where did you get this?' Oh, then, Hauptmann knew he was in for a little trouble. What do you think he said? He said, 'Oh, I have got a hundred of those,' just nonchalantly, 'Oh, I have a hundred of those.' And off he drove. And so they finally arrested him.

"They arrested him, and what do you think he said when they found on his person another Lindbergh bill? 'Where did you get this?' they said.

"Now, if he had gotten it honestly he would have told them right then. But what did he do? He said, 'This is one of three hundred dollars that I have saved up, because I thought gold would be more valuable, and I got it from my friends and from the banks, and I had three hundred, but this is the last'; so they took him to his home and they started a search.

"He knew they would not find it in his home. He had prepared for that. They took him to the police station and they pleaded with him and they talked to him. And then what?

"Carpenters dug up thirteen thousand some hundred dollars of United States money—Lindbergh money, ransom money. And he was confronted with that and he said, 'Yes, I buried that away.'

"'Where did you get it?' 'Why, a partner of mine, an associate of mine, a friend of mine, now dead, gave it to me.' 'Is that all that you have got?' 'Yes, that is all.'

"And at that very minute, when he was again saying that that was all he had and that the story which he first told about the twenty-dollar bill, when he admitted that that was untrue, and then he gave this story, at that very minute the police had more money, but he insisted that was all, and when he finished that statement, District Attorney Samuel Foley said to him, 'How about this eight hundred and some dollars?'

"And he said, 'Yes, I didn't tell you the truth; that is Lindbergh money too'; that is Lindbergh money too. And there, right in the house, hidden on an inside closet wall in his own admitted handwriting, there was the address and telephone number of Dr. John

F. Condon, in his baby's closet, on the inside. A little closet: you would have to get in on the inside and be—well, you would have to be the type of man of Hauptmann to get in there.

"In his own handwriting, and he is asked, 'Why did you write Condon's name on there?'

"'Why, you know, I had a funny habit, I liked to write telephone numbers or addresses.'

"He didn't have anything else in the whole house. And in that search, in that search we found the answer to the ladder.

"Now, one year about, before Hauptmann was arrested, one year before any of us knew that there was such a person in existence, the United States Government had traced to the Bronx Lumber Yard Company, or the Bronx Lumber Corporation, they had traced some of the lumber, they knew that ladder had been made of lumber, some parts of which came from the Bronx lumber yards.

"When Hauptmann was arrested, what do you suppose we find? We find he worked at the Bronx lumber yards, he bought lumber there, but not only that, he has got this ladder right around his neck; he took part of that attic of his and built the ladder with it—and we will prove that to you beyond any doubt.

"One rung of that ladder, one side of that ladder, comes right from his attic, put on there with his tools, and we will prove it to you, no matter how difficult it may sound—we will prove it to you so that there will be no doubt about it.

"Now, of course, this is like most crimes.

"There has to be a motive for it, and you probably know it by this time. You can be sure Charles A. Lindbergh, Jr., did not attack Hauptmann; it was not in self-defense; it was not because of any provocation or anything that he had against Colonel Lindbergh.

"He committed this crime, he had planned it for months, because he wanted money—money—money—lots of money he wanted, and he got it. What do you suppose he wanted it for, and what do you suppose he did with it? He wanted that money so he could do as he did: live a life of luxury and ease so he would not have to work.

"He quit his job the day he collected the $50,000, the very day; they had to replace him, so that he could do as he did: live a life of luxury and ease. So he could go to Florida, so he could have a boat on Hunters Island, and other places, so he could have a radio,

in the midst of the worst depression of this land, in May, 1932. He spends four hundred dollars for a radio.

"Not only that; so that he could as he did gamble and speculate with thousands and thousands and thousands of dollars. Why, he poured money into these accounts. In July, 1933, alone what do you suppose this gentleman did? Forty-five hundred dollars in the account of Mrs. Schoenfeld [1] or whatever her name is, the wife, the maiden name, the delightful wife of Mr. Hauptmann; forty-five hundred in the same month, two thousand more in cash in a savings account. That is besides this money found in the garage. He poured those monies in there to satisfy his desire to gamble and speculate. Why, he used Lindy's money to buy Sweepstake tickets with! What do you think of that?

"Now men and women of the jury, if we do not prove these facts to you, why, you acquit him, you acquit him; if we do not prove them to you, you acquit him. But if we do, as we are confident we will be able to, and as we expect to, let me just tell you, representing the State of New Jersey, that this State will not compromise with murder or murderers. We demand the penalty of murder in the first degree." [2]

WALTER E. ROBERTS

Walter E. Roberts, first State's witness, was examined by Anthony Hauck, Jr. He identified himself as a licensed civil engineer. His testimony pertained to maps and measurements of the Lindbergh estate and the surrounding country.

Much explanation was necessary because it was essential to convey the exact locations of the various rooms in the Lindbergh home, the relationship between the corridors and the rooms and the free accessibility of one room to the other, as well as a detailed description of the windows. Some maps were admitted in evidence

[1] The error in stating Mrs. Shoenfeld was the maiden name of Mrs. Hauptmann was determined by a very involved psychological process and allows for a great deal of speculation. Mr. Wilentz may have been aware that at times certain individuals in referring to my interest and conclusions concerning the crime, facetiously inquired, "Did you have anything to do with it?"

[2] Defense counsel was denied a motion for a mistrial on the basis of the Attorney General's "impassioned appeal."

and others for identification. It was agreed to use all maps to facilitate examination of witnesses.

ANNE MORROW LINDBERGH

Anne Morrow Lindbergh was examined by Wilentz. In his handling of the garments of the murdered child, he did not force the tragic implication of the symbol. At no time did she consciously display any feelings which might have affected the jury. She made a positive identification of the garments found on the body of the baby identified as her child. She identified the sleeping suit, known as "Dr. Denton's No. 2," and a thumbguard as having belonged to her child and having been worn by him the night he was kidnaped. Mrs. Lindbergh was very emphatic in her description of the child's normal mental and physical development.

Upon completion of her direct testimony,[3] Reilly stated: "The defense feels that the grief of Mrs. Lindbergh requires no cross-examination." [4]

CHARLES A. LINDBERGH

Colonel Charles A. Lindbergh, examined by Wilentz, upheld the honesty of Dr. John F. Condon and the various men and women employed by him. He identified the voice he had heard in the cemetery as having been Hauptmann's and the dead body as that of his child.[5]

As Reilly began his cross-examination, the tenseness in the courtroom increased. The jurors sensing this tension probably attributed it to the cross-examination of the father of the kidnaped and murdered child. The true cause of the excitement lay in a rumor that Colonel Lindbergh was carrying a revolver and would not hesitate

[3] Mrs. Lindbergh's testimony is condensed here as the details of the domestic arrangements and events preceding the kidnaping are fully given in Betty Gow's examination.

[4] Reilly attempted to subtly infer that her testimony was subject to cross-examination, but he would refrain because of her grief. His graciousness was negated by the implication of doubt of her testimony.

[5] The direct testimony is deleted as Reilly covered all the evidence in his cross-examination.

to use it if certain insinuations about his past life were made.[6] Others, with a flair for the morbidly dramatic, insisted that the Colonel would shoot Hauptmann. Some newspaper men maintained that they saw the revolver, and the wildest phantasy was rampant.

Court and Jury were cut off from the currents of these rumors and opinions; the Court's confusion, therefore, at the second of the following questions was comprehensible.

The first important question was: "Are you a peace officer of the State?"

It was answered in the negative.

Then the strangely significant question: "Are you armed, Colonel?"

Wilentz, who knew beforehand that the question was to be asked, objected that it was immaterial. The Court, disconcerted, asked what the question was. When Wilentz repeated it, he answered that he did not see its materiality but Reilly dryly replied: "I thought it was." Colonel Lindbergh interrupted the discussion, saying he had no objection, and answered in the negative.

Reilly suggested the possibility that hostility might have arisen when Colonel Lindbergh purchased his estate in Hopewell. The intrusion of an outsider into this locality might have been resented by the natives. Furthermore, in landscaping, the estate roads previously used by them as short-cuts had been closed. Colonel Lindbergh's testimony in no way substantiated this inference of hostility.

Subsequent questions pertained to the records of persons employed by the Lindberghs, the method of checking references, qualifications and backgrounds. He admitted ignorance of the procedure but was certain that Mrs. Lindbergh had made the necessary investigations.

When the Colonel repeated that Mrs. Lindbergh had made investigations of each member of the household, and that after the kidnaping the police made another check-up, Reilly with an intonation that tended to discredit the witness asked:

[6] It was thought by some that unfounded rumors, concerning the Colonel's personal life, would be referred to in court.

"Did you not make any effort as a father to find out the background of the people that were in the house the night your child was snatched away?"

The Colonel stated that he had placed his entire confidence in the police authorities from that time on and followed their suggestions. When Colonel Lindbergh stated, "I think we have very good police,"[7] laughter from the audience annoyed the Court. Reilly then, through numerous questions, attempted to infer that throughout the period when he had been seeking his child and during negotiations with the kidnaper and investigations following the discovery of the dead body, the Colonel had not extended his confidence to all police agencies.

Colonel Lindbergh was thoroughly questioned about the routine of the house and the ways of walking from one room to the other and of his activities during that week-end and the day and night of the crime. Reilly, finishing this phase of the examination, inquired:

Q. So that a person in the outside world or a gang on the outside world on Tuesday, March the 1st, would have no knowledge as to where you were? A. Well, that depends upon the organization.

Q. It wouldn't depend on any information you gave, would it? A. Well, not with knowledge.

Although it had previously been agreed that the dog was in the house the night of the crime, Reilly discussed the subject at length. Without any apparent relevancy, he asked, "Well, was there any particular reason why it went back to Englewood just before the kidnaping?" Colonel Lindbergh insisted it had been at Hopewell. Reilly, elated, then tried to indicate by his manner that he had won a great victory in the fact that a dog had been on the scene and had not barked.

In the argument which ensued between opposing counsel, when the Colonel stated that he did not "expect anything from that dog," Reilly became very angry and vehement. He closed this discussion with the declaration: "Anyhow the dog was around

[7] There seemed to be a consensus that the Colonel had placed complete confidence in the New Jersey State Police and somewhat ignored other police aid.

and you have no recollection now that the dog indicated there was anything unusual about the house."

Reilly then evinced great interest in the question of whether the witness had heard any noises while he was washing in the room adjacent to the nursery at about 8:30 P.M. The witness answered in the negative.

After a detailed discussion as to the number of doors and the location of all the rooms on the first floor, the witness was asked if, while he was sitting in the dining-room, someone could have entered the front door of the house, gone upstairs to the nursery and removed the baby from its crib without having been seen. The Colonel replied in the negative. Defense counsel then switched to another possibility:

Q. . . . If there was disloyalty in your home, would it be possible for a person acquainted with the home to take the baby out of the crib and descend the servants' staircase and hand it to someone in the garage yard while you were dining?

The Colonel replied that it would have been possible for someone to take the baby out of the crib.

Reilly then tried to make the witness declare he had not seen Betty Gow until she reported the absence of the child at ten o'clock. The Colonel, however, had seen her earlier in the evening.

The next series of questions were ambiguous and tended to strain conditions within the courtroom, when Reilly, by his tone of voice, made possible subtle inferences.

Q. Now, did you at any time go to any of the windows of that house to indicate that you were in that particular room?

Colonel Lindbergh, although he smiled, was somewhat confused and a little ill-at-ease as, perhaps, the various shades of meaning came to his consciousness, and answered, "That I was in there?"

Reilly, correcting the uncertainty of the question, aggressively inquired: ". . . Did you show yourself at any particular window?"

The Colonel denied any such intention, but explained that since there were no curtains he might have been seen.

Later the Colonel was asked about the position of the ladder marks in the soil under the nursery window and whether there had been fingerprints on the window sill of the nursery which would have indicated that a person outside of the building had opened the window. As Reilly asked these questions, especially the last one, his voice took on a contemptuous and doubting tone and he looked directly at the jurors instead of the witness.

Wilentz, noticing this deviation, requested, "Will you please face the witness when you are asking him questions?"

The Colonel answered that Trooper Kelly was in charge of fingerprints.

When Colonel Lindbergh was asked to describe the noise he had heard shortly after nine o'clock that evening, he said it had been "like the boards on a crate falling together off a stand or a chair." Defense counsel seemed satisfied in proving that the noise had not come from the nursery. With most dramatic emphasis, he asked the Colonel if he would not have dashed upstairs to see how the child was if the noise had indicated anything amiss in the nursery.

Reilly's next questions were very deliberate, pointed, and intended to prove that the child had led a very isolated life. He thus created the impression that, if a stranger had come into the nursery, the child would have cried. The sarcasm inherent in the question, as to what the witness thought of having left a sick child in its room for two and a half hours without having gone to ascertain its condition, gave cause for heated argument between opposing counsel. Reilly insisted emphatically that sick restless children could smother to death in bed by disarranging blankets and heavy bedclothes.

This phase was abruptly discontinued and questions were asked about whether the window had been closed and warped and about the position of foot smudges on the nursery floor and finger smudges on the window.

Defense counsel made much of the fact that a smudge on the suitcase under the window, indicating that a man had stepped on it, was very doubtful, because a man weighing between one hundred and seventy-five and one hundred and ninety pounds would have crashed through it.

The Colonel seemed to find it difficult to discuss Betty Gow's emotional reactions to the crime.[8]

Q. Was she hysterical? A. No.

Q. Was she crying? A. I do not believe so.

Q. And yet from all indications before that, she was greatly attached to the child, and the child attached to her? A. I believe so, yes.

Q. In fact, she was the closest person to the child excluding Mrs. Lindbergh. A. She was with the child more than anyone else.

Q. That is what I mean. A. Yes.

Q. She was with the child and the child was practically growing up alongside of her and in her companionship? A. Yes.

Defense counsel then switched and asked where Colonel Lindbergh had found the ransom note. The Colonel replied, "The note was lying on the window sill." [9] He clearly indicated that it had not been touched by anyone. As Reilly discussed the position in which the ladder had been found, he seemed doubtful that one person could have carried it.

Colonel Lindbergh was further examined as to his confidence in police officials and his attitude toward the Federal authorities in particular. He was even asked pointedly whether he had told Department of Justice agents to keep out of the case. He emphatically denied this. The confusion in police control that night was explained by the witness. He agreed that the conflict had been due to the presence of Jersey City police, Newark police and the New Jersey State Police, and that a short time later conditions had been further complicated by the presence of Federal officers. He did not know just when, but felt certain that within two days, complete control had been given the State Police by Governor A. Harry Moore of New Jersey.

[8] Colonel Lindbergh's response to these questions indicated an objectivity which by its very terseness seemed to imply an unwillingness to vouch for Miss Gow. This attitude was characteristic of the Colonel throughout his testimony. He would not permit himself an expression of opinion on anything unless it were something of which he was personally cognizant. No matter how well he knew an individual referred to, when asked to comment, he held to his aloofness. He seemed apart from emotion and intolerant of emotion on the part of others.

[9] According to Dr. Condon's official report to the police, "John" had told him, at Woodlawn Cemetery, that the note had been left in the baby's crib.

Reilly then went into detail, trying to force the Colonel to admit he had always been of the opinion that more than one man had kidnaped the child and at one time thought the Purple Gang of Detroit guilty. He denied it. The witness explained that he had employed Bitz and Spitale at the suggestion of Colonel Henry C. Breckinridge. Colonel Breckinridge had been informed that if the underworld knew anything about the kidnaping, Morris Rosner would be able to get the information.

The Colonel's attention was then directed to an envelope containing a note addressed to him and mailed on March 4th, 1932, at 9 P.M. from Brooklyn, New York. Asked if he had consulted the New York police, he replied in the negative.

Q. Did the Police Commissioner of New York City, shortly after you received this letter, March 4th, 1932, 9 P.M., Brooklyn, N. Y., offer to you to cover every mail box in the City of New York, with a police officer, to intercept any further letters sent to you from Brooklyn, or from New York City? A. That may have been done, I do not recall it, and it was not a direct offer.

Q. Did you ever hear of it? A. Not so that I could say, not so that I could say that, not so that I could say that definitely. No.

The Colonel denied having any enemies in the aviation world. Asked if he knew a Swede by the name of Anderson of Bennett Field, and if he had ever quarreled with him when they both had been in the mail service, and received threats from him, the Colonel replied in the negative.

He emphatically denied having known Condon before the kidnaping.

Reilly then inquired: "You didn't advise Dr. Condon to put the ad in the *Bronx News,* did you?" The witness slowly but forcefully replied, "I did not."

The Colonel testified that Rosner had been employed prior to Condon's entrance into the case. He further said that members of the New Jersey State Police, Jersey City and Newark police, Internal Revenue Department, Colonel Breckinridge, Rosner and himself had seen the symbols. Asked if Condon had seen the symbol previous to his receipt of a letter from the kidnaper, the Colonel replied: "No, as far as I know." Colonel Lindbergh thought

it inconceivable that the "master mind" referred to by Reilly might have inserted the advertisement in the paper and answered it himself.

The next questions pertained to Colonel Lindbergh's various conferences with Condon and whether most of these arrangements had been at the suggestion of Condon. Reilly stressed the fact that neither the witness nor anyone else had ever seen Condon receive a ransom note and that knowledge of the various transactions rested solely on Condon's uncorroborated statements. The Colonel was examined in detail as to the arrangements the night of the ransom payment. Reilly deemed it very important to have the witness say that the box which had contained the ransom money had been built by a man selected by Condon. Colonel Lindbergh stated that he had brought the money in a package and then put it in a box which Condon had in his home. The witness corrected any inference which might have been drawn from Reilly's statements by insisting that the dimensions had been determined by the instructions in a ransom note. He said also that Colonel Breckinridge had suggested to Condon that he have the box made.

A discussion which arose between opposing counsel on the rôle played by John Hughes Curtis became involved and irrelevant.

Reilly then referred to the suicide of Violet Sharpe, waitress in the Morrow home. The witness insisted that although he had been there, he did not know whether they had been able to question her before she committed suicide.

"Red" Johnson was referred to by Reilly as having been a servant in the Morrow home, which the witness denied. Colonel Lindbergh also said he had no knowledge that Johnson and Violet Sharpe had been friendly. He did know that Johnson had been eventually apprehended by United States Immigration authorities for having been in the country illegally. The Colonel declared he did not know that the warrant for deportation had been withdrawn by orders from Washington and that "Red" Johnson had been allowed to leave the country voluntarily and was now residing in Denmark or Sweden.

Regarding the jury triumphantly, defense counsel made the witness agree that Betty Gow, who was not in this country at the

time of the Hauptmann arrest, had been brought back, whereas "Red" Johnson[10] had not.

Mr. Wilentz waived redirect examination: "We decided not to further harass the witness. . . ."

CHARLES E. WILLIAMSON

Charles E. Williamson, a police officer of Hopewell, was examined by Wilentz. He testified that on the night of March 1st, 1932, he received a telephone call from the Lindbergh home requesting police aid. He communicated with Chief Wolf of the Hopewell police and both of them arrived at the Lindbergh home at approximately 10:25 P.M. They were met by Colonel Lindbergh with rifle in hand and escorted to the nursery.

Wilentz asked. "What did you see in that room at that time?"

He replied, "I saw the crib that was empty. I saw the note in the window. I saw dirt tracks or mud tracks leading from the window toward the crib."

He described the mud tracks as having been of a clay substance and he thought there had been three or four. The distance from the window to the crib was approximately twelve feet.

The officers and Colonel Lindbergh then proceeded to the living-room where they discussed the situation. The witness, again discussing his observations in the nursery, stated that the shutters were open on the southeast window though the window was closed. He then went outside of the house with a flashlight to investigate. Underneath the southeast window he observed two indentations on the ground, which he declared were ladder marks. He also saw footprints which led from these indentations toward the ladder, approximately sixty feet away from the house.

On May 12th, 1932, William Allen, a negro truck driver, informed him of the discovery of a body in Mercer County. At about 3:30 P.M. Williamson, accompanied by Wolf, arrived at the

[10] Immediately after the crime, "Red" Johnson was questioned by the police and completely absolved. Persistent rumors, however, served to maintain dissatisfaction with his exoneration. The State of New Jersey could have settled the question at little expense, by having him brought back to testify. This omission was an unfortunate oversight.

place designated by Allen, where they found the dead body of a baby. Wilentz then exhibited a photograph of Charles A. Lindbergh, Jr., which Williamson identified as resembling the dead body. The witness further testified that the body was clothed in an undershirt and other garments, all of which he identified.

Under cross-examination by Reilly, Williamson testified that he had never seen the Lindbergh baby alive, but insisted that the face of the dead body was just like the photograph of Charles A. Lindbergh, Jr. On the night of March 1st, 1932, he saw Trooper Kelly, the fingerprint expert of the New Jersey State Police, test for fingerprints in the Lindbergh nursery. The witness' direct testimony was reviewed and he now stated there were two or three footprints leading from the window of the nursery to the crib. He had seen three or four man's footprints which led from the indentations in the ground toward the place where the ladder was found. He did not observe anyone taking a cast of these footprints. His duties, for the following two or three days, were to deliver messages.

Wilentz, on redirect examination, attempted to imply that the witness was just a minor official, but upon objections from Reilly, he discontinued his examination.

ELSIE WHATELEY

Mrs. Elsie Whateley, cook in the Lindbergh home and wife of the butler, was the next witness. She was on the stand but a short time when she volunteered the legally irrelevant statement that her husband had not been in the habit of taking out Violet Sharpe.

Wilentz discussed with tenderness the child's playfulness on the day of the kidnaping, causing Reilly to object strenuously and to insist loudly that the Attorney General was not examining properly, as he sought to arouse the sympathy of the jurors.

Mrs. Whateley testified that Colonel Lindbergh arrived home on the night of March 1st at about 8:20 P.M.; he went upstairs and then came into the kitchen with Mrs. Lindbergh where they conversed with her and her husband. Betty Gow was reading in the servants' sitting-room, and at about 9 P.M. she accompanied Mrs.

Whateley to her room to look at a dress which she had bought. Mr. Whateley at this time went to the sitting-room to read.

After a while Betty Gow looked at her watch and said, "It's ten o'clock, I must go to the baby."

Some time during the day, Betty Gow had asked her for some thread. She remembered the incident very well because she had been asked for white thread, and not having had any she had given Betty Gow some blue thread, blue Silco, which she had brought from England and had perhaps three years. That thread was used to sew an improvised sleeping shirt for the baby that night. She did not see Betty Gow sew it but she saw her cut it out. Wilentz exhibited the dress she had shown Betty Gow that night and she identified the blue silk thread in the seam of it as being the same she had given to Betty Gow. The dress and the thread were admitted in evidence.

The witness further explained that when Betty Gow left her, she went to Mrs. Lindbergh's room and was requested to make some hot lemonade. She then proceeded to the kitchen, told Whateley what she was to do, and he put the kettle on the stove. As she was cutting the lemon, Betty Gow came in and asked Whateley to go to Colonel Lindbergh, ". . . he wanted him, as the baby had gone."

The witness asked Betty Gow what she meant and she replied, "Why, Elsie, the baby is gone."

Mrs. Whateley immediately went upstairs and saw her husband and Colonel Lindbergh. She asked the Colonel, "Where is Mrs. Lindbergh?"

The Colonel, pointing to the nursery, replied, "In there."

This testimony was given in a very calm and unemotional manner and the Attorney General asked the witness in what tone of voice or manner Betty Gow had addressed her.

The witness replied, "Well, she was terribly upset, of course."

Then they searched the house while Colonel Lindbergh and Whateley went outdoors to investigate. After the house had been searched, Betty Gow, Mrs. Lindbergh and the witness sat in the living-room but talked very little.

Wilentz, impressed by her objective recital, tried to get her to give Mrs. Lindbergh's emotional reactions.

The witness replied: "Well, she didn't say anything in the living-room. As I was going around with her, she said, 'Oh, God.'"

When Wilentz tried to get her to give him the number of times Mrs. Lindbergh had said, "Oh, God," Reilly objected and sarcastically stated, ". . . Of course, it is pathetic."

The witness and Betty Gow retired at about 4 A.M., but Mrs. Lindbergh stayed up all night.

In regard to the dog in the house the night of the crime, the following questions were asked:

Q. What sort of a dog was it? A. A terrier, an English terrier.

Q. . . . Was he a barking dog or a quiet dog? A. Well, I always thought he was sharp; [11] if he heard a noise, he would bark, as a rule, but the wind was so bad that night you couldn't hear anything.

The dog, between half-past seven and ten o'clock, was in the servants' sitting-room situated on the ground floor on the extreme westerly side of the house.

The witness then testified that her husband died in May, 1933, from peritonitis. He was ill one day at home and three days in the hospital.

After a number of repetitive questions, Reilly, who now took the witness,[12] suddenly asked:

Q. Isn't it a fact in New Rochelle your husband became acquainted with Dr. Condon? A. No, indeed, it was not; he did not know Dr. Condon.

Q. Where did he first meet Dr. Condon? A. He never met him. He saw him in the Lindbergh home; I don't know whether he ever spoke to him.

Q. Didn't your husband and you know Dr. Condon in 1931 in New Rochelle? A. No, we did not.

[11] This directly contradicts the implication in Colonel Lindbergh's testimony that the dog was not "sharp" and given to barking. He said he did not "expect anything from that dog."

[12] The importance of the declaration in Reilly's questions was highly significant and must have put the jurors in an expectant mood. Such questions, unless substantiated by rebuttal witnesses, necessarily insult the intelligence of the jury. The trial terminated without any evidence to corroborate the inference inherent in these questions.

Reilly then tried to get her to state that she had been very well acquainted with Violet Sharpe, but Mrs. Whateley insisted she had not been. Further testimony elicited that Violet Sharpe had never visited the Hopewell home prior to the kidnaping. In regard to the insinuation that her husband had been very friendly with Violet Sharpe, Mrs. Whateley asserted positively that he had not known her, "only to say good morning. . . ." After a repetition of part of her direct testimony, she was asked about her husband's death, and with that her examination was completed.

BETTY MOWAT GOW

Betty Mowat Gow was examined by Wilentz on January 7th. She started to work for the Lindberghs on February 25th, 1931, and was in their employ on March 2nd, 1932; prior to that she worked for approximately six months in Englewood. Before that, she worked in Detroit, Michigan, in several places, including a hotel. She arrived at the Lindbergh home when the baby was eight months old and took care of the child, the nursery and her own room. She described the Lindberghs' custom of spending week-ends at their Hopewell home. She, as a rule, did not accompany them because of Mrs. Lindbergh's eagerness to care for the baby herself. Discussing the week-end immediately preceding the kidnaping, she stated that as usual she did not go with the family, but remained in Englewood until Tuesday when she left for Hopewell because of a telephone call at about eleven-thirty that morning. She had arrived there at about one-twenty and finished with her lunch at about two o'clock. She went to the nursery at two-thirty with Mrs. Lindbergh and remained there for some time with the child after Mrs. Lindbergh left. A short while thereafter, Mrs. Whateley came in and Miss Gow's attention was called to the window by the sound of little pebbles being thrown against it by Mrs. Lindbergh. About four o'clock Mrs. Lindbergh returned to the nursery and said she was to have tea in the sitting-room. Betty Gow brought the baby to her at about five o'clock and Mrs. Lindbergh and the child remained in the sitting-room. A little before six o'clock, the baby ran into the kitchen and she took him upstairs for his supper. Before he had finished, Mrs. Lindbergh

came into the nursery and remained to help prepare the child for bed.

When about to place him in bed, Betty Gow gave him a physic, and some of it spilt over his night clothes. She undressed him and, because of the cold, thought it advisable to make a little flannel shirt to put next to his skin. She obtained scissors and thread from Mrs. Whateley and cut a flannel shirt from a piece of cloth, and after rubbing the baby's chest with *Vick's,* put the garment on.

Betty Gow identified the improvised garment shown her as the one she made that night. The cloth from which she stated the garment was cut was then exhibited. Betty Gow held the two pieces together and their contours fitted. Wilentz then exhibited a spool of blue thread. She identified it as the thread used to make the garment.

The child wore a woolen shirt over that improvised garment, and when shown the shirt she identified it as the one she put on the child that night. In addition, the child wore a diaper, a rubber covering over it, a sleeping suit and a thumbguard on each thumb. She identified the thumbguard found on the estate as one she had placed on the child.

After the child was put to bed, Mrs. Lindbergh and she closed the shutters, except the warped one in the southeast corner of the room, which could be drawn to the window but not locked. Those on the other windows were locked. She left the baby at about eight o'clock, and reported to Mrs. Lindbergh that he was sleeping peacefully.

The witness then had supper with Mrs. Whateley in the servants' sitting-room. From time to time she saw Whateley in the pantry. During supper, at about eight-thirty, they heard Colonel Lindbergh's automobile and then he came from the garage into the kitchen. She told him of the baby's condition, after which she received a telephone call from Henry Johnson. She returned to the servants' living-room, turned on the radio, looked at a magazine, and remained for about a half-hour; at times she saw Mr. and Mrs. Whateley. The dog was with her during that interval and she left it there when she went upstairs with Mrs. Whateley at approximately nine o'clock.

At ten o'clock, she entered the nursery but did not turn on the

light, as this usually startled the baby. It was her habit to leave the nursery door open and the light from the hallway allowed her to see into the room. She closed the French window, plugged in the electric heater and waited a few minutes for the room to lose its chill. She then crossed over to the crib and leaned over it with her hands on the rail. She was not able to hear the baby breathe. She bent down and "felt all over for him and discovered he was not there."

Her testimony continued:

I thought that Mrs. Lindbergh may have him. I went out of the baby's room into the hallway and into Mrs. Lindbergh's room. I met her or saw her coming out of the bathroom and asked her if she had the baby. She looked surprised and said, no, she didn't.

I said, "Well, where is the Colonel, he may have him." I said "Where is he?"

She said, "Downstairs in the library."

I turned quickly, ran downstairs to the library where I saw the Colonel sitting at his desk reading. I said, "Colonel, do you have the baby?"

He said, "No. Isn't he in his crib?"

I said "No."

He ran past me upstairs and into the baby's room. I followed him and from there entered Mrs. Lindbergh's room. He didn't say anything. He ran into his closet, came out again with a rifle and all three of us went into the baby's room.

He said, "Anne, they've stolen our baby."

Colonel Lindbergh sent her for Whateley and she found him in the kitchen. While Whateley and the Colonel searched downstairs, Mrs. Whateley was with Mrs. Lindbergh, and the witness went upstairs to look in various closets on the second floor.

After the arrival of the police and while a thorough search was being conducted, Betty Gow sat in the living-room with Mrs. Lindbergh and Mrs. Whateley. Mrs. Breckinridge and some of Mrs. Lindbergh's friends arrived in a little more than an hour. Miss Gow was called into the nursery again by Colonel Lindbergh and told to bring a knife to handle an envelope in order to preserve possible fingerprints.

The witness stated that about a month after the kidnaping Mrs. Whateley and she walked down toward the gate of the estate, their usual daily exercise, and on the way back, she noticed the thumbguard on the road. She walked this road frequently because, between the kidnaping and the day she found the thumbguard, she did not leave the estate. She went to the morgue in Trenton on May 12th, accompanied by detectives, and positively identified the dead body of a baby as being that of Charles A. Lindbergh, Jr.

Wilentz now declared to the Court it was his understanding that Reilly agreed to the State's contention that "the child was normal and healthy and a playful child"; therefore he wouldn't question the witness on the subject.[13]

Reilly was extraordinarily polite as he started his cross-examination and asked Miss Gow if she wished to rest. She graciously declined. She testified she was thirty years old, and had started to work in Glasgow at the age of fourteen. On May 4th, 1929, she arrived in the United States.

Sarcastically he inquired, "Under what name did you enter?"

She replied, "Bessie Mowat Goway."

Reilly insisted that she name all her positions in Detroit. She recalled as many as she could and stated she was there for about six months. He also insisted that she name all of the young men whom she knew there. Wilentz objected, and after a heated argument the Court thought the question irrelevant, but stated that if, as the case developed, counsel for the defense proved it relevant, he would allow it.[14]

Reilly turned to his table and with a significant air picked up a folder and sighed so that newspaper men and visitors could hear it.

[13] Immediately following the kidnaping, rumor was rife that the Lindbergh baby was mentally and physically retarded. During the trial, baseless rumors persisted and further elaboration gave rise to the inference that the defense would, in some remote way, use the supposed condition of the child as a motive for the kidnaping. Wilentz, aware of this rumor, persistently asked members of the Lindbergh household about the health and normality of the child. Reilly finally put an end to these inquiries by agreeing at this point to accept the normality of the child without question.

[14] It was thought that the defense would attempt to associate Miss Gow in some way with the "Purple Gang" of Detroit. There was no basis for this conception.

He thus intimated that the folder contained many things to prove he knew "too much" about her.

Turning to her, and reading from his folder, he asked: "Did you ever apply for positions through the agency of Miss Alaire?" She replied in the negative.

Questioned next whether, in 1929 or 1930, she went to the office of Miss Alaire in Hackensack, New Jersey, and applied for a position, she answered that she applied in Hackensack, but was unable to recall the name.

Reilly then wished to know if she was able to supply references at that time. He declared to the Court that the witness' credibility was important, and if after having worked in Michigan for six months she were unable to supply references, the jurors could draw their own conclusions. The Court objected to the form of the question but suggested that he ask the witness whether she did or did not give a reference at the time she applied for a position.

Reilly grew red and showed indications of embarrassment when she answered triumphantly, "In the first place, it was not after I had been in Detroit . . ."

His defeat became more decisive when he asked, "Well, then, did you . . . secure a position with a lady named Mrs. Franzenfeld of Hackensack?"

The witness happily replied, "No, I did not."

Reilly tried to overcome the apparent falseness of his information and asked, "Did you secure a position from Miss Gibbs through that agency?"

She again corrected him and said that it was while she was working for Miss Gibbs that she applied to the agency. Fumbling papers, he inquired if it were true that she worked for Miss Gibbs for one month. She gladly corrected him, by stating one year. Defense counsel then asked whether she had secured the position with Colonel Lindbergh through the Lindquist Agency. She replied in the negative.

Reilly exasperated, asked, "How did you secure the position? . . ."

She said she had obtained employment in the Lindbergh home on the recommendation of Mary Beattie, Mrs. Morrow's former lady's maid.

To the jury, the next series of questions may have meant very

little, but to those in the courtroom, they were cause for anticipatory excitement. Reilly waited a few minutes, and again thumbing his folder, asked how many brothers she had. She answered, two, Alexander and James, in Glasgow, Scotland.

The expectant audience waited patiently for the answer to the next question: "When did they return to Scotland?"

Miss Gow measuring each word, stated, "They have never been out of Scotland."

Defense counsel, much surprised, asked: "Never been in this country at all?"

She challenged him with her reply, "No." [15]

He now discussed the much-heralded "Red" Johnson. Betty Gow stated that she met him in North Haven, Maine. Questioned if he were known as "Red" Johnson she deliberately stated: "His name was Henry Johnson . . ." and indicated that only his friends had the right to call him "Red" Johnson. She admitted she had gone out with him many times, to different places in and around Englewood, and probably once to Palisades Park. Reilly then asked whether there had been any difficulty at the latter place. She stated there had not.

Asked whether she could recall any conversation with any police officer the night she was in Palisades Park with Johnson, she answered: "At Palisades Amusement Park?"

Reilly answered, yes. She replied again, no.

Johnson had been employed by Mr. Thomas Lamont.

Defense counsel snapped at her: "By the way, how did you come back to this trial? Who paid your expenses?"

Her voice calm, her head raised, and looking directly at him, she answered, "I came back here to aid justice."

Her statement infuriated Reilly, who wanted her answer stricken from the record.

The Court's decision clothed the point in hesitation. Looking at the Attorney General, he declared: "Well, you see, it is a matter

[15] It was rumored that one of Miss Gow's brothers had been in the United States and had difficulties with the New Jersey police authorities because of unlawful activities. Were this true, it was thought that the defense could attack her testimony. However, this rumor, like numerous others, proved to be without basis in fact.

that is volunteered and not responsive to counsel's question, and I suppose that technically [16] he has a right to have it stricken out, and that will be the order."

Sarcastically referring to the time the witness had been in the United States, Reilly inquired: "Did you ever have an intention of becoming a citizen of the country where you were making your living?"

After an objection, the Court stated: "Mr. Reilly, that seems to be going a long way. I don't see how it is material."

Reilly continued to stress that she had not worked on her return to Scotland, and tried to imply she had money from some other source and never intended to work.

Miss Gow denied having seen Mrs. Whateley from the time she left the United States until her return as a witness.

Reilly suddenly handed her a photograph and asked if it were one of herself. She said yes.

Wilentz [17] jumped from his chair and said, "Take a look at it, please, Miss Gow."

She replied: "Yes, that is my photograph."

Reilly casually offered it in evidence; the Attorney General wanted to see it. The Court asked if it were to be offered in evidence. Reilly, instead, offered it for identification.

Defense counsel holding another picture before her which could not be seen by anyone, stated: "This, Miss Gow, is also another copy of a picture of you."

Looking at it, she deliberately said: "That is not my picture."

It was offered for identification.

The witness was then given both pictures and asked to compare them. She still insisted the second was not hers. Reilly asked if the hat in the first picture were not the same as that in the second one. She refused to agree. Wilentz objected to this cross-examination as improper, but immediately withdrew. Defense counsel asked if the smile were not the same and she again refused to agree.

[16] The Court's use of the word "technically" clearly indicated his distaste for Reilly's objection. He, nevertheless, granted it according to a strictly legal interpretation.

[17] Wilentz had been anonymously informed that during Miss Gow's examination a composite photograph of her in a compromising situation might be introduced. He did not believe his informant but took no chances.

Reilly inquired if she had been warned beforehand to identify one picture and not the other.

Discussing the Lindbergh household, Miss Gow explained that the family had never been really in residence at Hopewell. The house had been opened for the first time approximately five months before the kidnaping and had been used only for week-ends; the Lindberghs and their servants really lived at the Morrow home in Englewood, New Jersey.

Reilly went into the question very carefully as to who would have known that the Lindberghs planned to go to Hopewell the week-end prior to the kidnaping. She thought she knew on Friday, because Mrs. Lindbergh told her.

Then the puzzling question: "Then, when the Colonel and Mrs. Lindbergh left for their week-end at Hopewell they didn't take the baby, is that correct?"

Miss Gow snappily replied: "They did take the baby."

She admitted having known Violet Sharpe, a "Britisher."

Reilly, apologizing for the digression, asked if she had ever seen a flashlight in and around the Hopewell home. She did not remember, and denied having used a pocket flashlight in the nursery at Hopewell.

Very much surprised, he inquired: "You never owned a flashlight?"

She emphatically said no, and said she could not recall ever having seen Whateley with one.

Reilly next sought to discover, who, at the Morrow home, would have known when the Lindberghs were to have returned from their week-end. The witness was unable to say. She thought, however, that the first knowledge of their extended stay was a telephone call to her at the Morrow estate. She probably told some of the servants and her friend, Mr. Johnson.

Reilly loudly asked why she told "Red" Johnson, and added: "Well, he didn't work on the estate, did he?"

She answered that she was out with him on Monday night, and might have told him in the course of casual conversation.

Defense counsel asked if she knew the baby was ill, and sarcastically added, "You were supposed to be very fond of the baby, weren't you?"

She replied she was, but Mrs. Lindbergh had not asked her to come to Hopewell.

Reilly, as though she were guilty of a crime, declared, "and because she didn't ask you, you didn't volunteer?" Before she had a chance to reply, he interrupted: "But you went out Monday night with Mr. Johnson?"

Defense counsel then asked whether she had revealed to trades people, outsiders or strangers that the Lindberghs planned not to return to Englewood as usual. Her replies were in the negative.

As though it absolved the defendant from all guilt, Reilly inquired, "And you did not tell this defendant, did you?"

She replied, "I did not."

Reilly, regarding the jury said, "No."

She denied having been driven to Hopewell on the day of the crime by Johnson; Mrs. Morrow's chauffeur drove her.

Aggressively, defense counsel discussed her telephone call from Johnson the evening of March 1st.

When she stated that it had come from Englewood, Reilly shouted and created perhaps one of the most exciting moments in court when he yelled, "Don't you know it was from Hopewell?"

Wilentz, though calm, realized the significance of the question. Like a soothing father, his hand outstretched toward Reilly, he said: "Just a minute."

But she shouted back, "No, I don't know that."

The ensuing argument between defense counsel and the Attorney General was acute. Reilly objected that Wilentz, by analyzing the significance of the question, was testifying; and accused him of cleverly using this opportunity to stop the witness at an important point.

Reilly argumentatively declared that when Miss Gow left Englewood for Hopewell she should have telephoned Johnson she would not be able to see him that night. As she had been out with him the night before, Reilly shouted, "What was the great importance of the second night?"

Wilentz dramatically objected. Reilly sarcastically supposed she wanted to say goodbye to him on Tuesday night as Monday night's farewell had not sufficed. The Attorney General again objected.

The witness snapped, "It didn't suffice."

In discussing her whereabouts between eight and ten o'clock in the different rooms, Reilly abruptly inquired, "Now, what time did you and Mrs. Whateley think it so important to go upstairs to her room," and contemptuously, "to look at a dress?"

Wilentz asked that "so important," be stricken out and Reilly agreed.

Further examination elicited that most of the windows had no shades or draperies, so with the lights lit anyone could look in from the outside. Reilly asked if she had ever given any indication, to any person in the world, of the location of the nursery and whether anybody had ever questioned her as to where the baby slept or the position of the crib in the room. She answered in the negative. After a discussion by Reilly of unimportant details, Betty Gow said that she did not hear the dog bark that night; she admitted, however, that the dog had previously barked at strangers.

Discussion followed about the condition of the room after the discovery of the baby's absence. Reilly wanted to know if she had reported the warped shutter. She was not aware of it until that night, she said, because the previous week-end had not been windy and the shutters had not been closed. The night of the kidnaping was rather windy, and in attempting to close the shutters, she made her discovery.

The application of the thumbguards and their value in the prevention of thumb-sucking was discussed. Reilly suddenly hurled the question as to whether she dropped the thumbguard on the road when she went for her walk.

Emphatically, she said, "I did not."

He sneeringly asked if she were sure about it.

When she said she was positive, he inquired in a voice which left little doubt as to his meaning, "And yet with all these policemen and with all the inclement weather for the month, and with everybody passing and searching those grounds day after day, night after night, you would have this jury believe that you could pick up in broad daylight on that road this bright, shiny thumbguard in the same condition it is—"

Wilentz objected that it was not shiny.

Reilly, angrily waving his hand, stated: "I will leave it to the jury whether it is bright and shiny."

Wilentz, equally disturbed, answered: "No, you needn't leave it to the jury. It is not bright and shiny; that is my view."

Reilly countered, "And it isn't muddy, and it isn't rusty."

Betty Gow explained that the thumbguard had been much muddier when originally picked up; she brushed the dirt off. Reilly made much of what he thought an important contradiction. When shown the thumbguard on direct examination she had said that it was in the same condition as when picked up. She discredited his attempt at contradiction and said that many people had handled the thumbguard since found, and naturally it could not be the same.

Considerably annoyed, he retorted, "Now, you are a very bright young lady, Miss Gow, aren't you?"

She saucily replied, "I am."

Applause and laughter greeted her response and Justice Trenchard seriously threatened to clear the entire courtroom. Reilly, chagrined, and fearing further humiliation at her hands, asked for a recess.

With the beginning of the afternoon session, Reilly showed Miss Gow a photograph which she identified as one of Violet Sharpe. She identified another as one of herself. Reilly then gave her a third photograph which she was unable to identify, and it was marked for identification. A fourth one, she identified as one of Dr. Condon.

Miss Gow denied ever having been to City Island or the waters adjacent to it, or Hunters Island and its surrounding waters. She admitted having gone boating occasionally with Johnson in North Haven, Maine, and in Englewood. She denied any acquaintance with two girls known as Paulette and Louise Debois and with Abe Wagner of Detroit.[18] Reilly discussed the furniture in the nursery, the position of the crib, the toys, where the doors led, and the position of the other rooms on the second floor. He strongly accented the fact that when she entered the room at ten o'clock that night, there were no signs of any disturbance.

Then he quickly changed the subject, and the witness denied knowing a Mr. or Mrs. V. J. Cotter of City Island. Defense counsel seemed rather surprised to learn that Betty Gow had never visited the Lamont yacht, on which Johnson had been one of the crew.

[18]An alleged member of the "Purple Gang."

Defense counsel, with a doubtful air, conveying the impression that Betty Gow had actually lied, closed his examination with the question: "And so you say that you have never visited with Violet Sharpe any yacht or boat that was owned by Dr. Condon?"

Snappily, she replied, "No, I didn't."

Wilentz immediately took the witness and made her repeat that she had not known Condon, Hauck or Reilly before March 1st, 1932. In order to clear up the relationship of the Morrow family, and perhaps with the intent of influencing the jury, he referred to the Morrow home as the estate owned by the late United States Senator Dwight W. Morrow. Wilentz asked her when Senator Morrow died.

Reilly objected that the question was "incompetent, irrelevant, immaterial, sad but incompetent."

Wilentz, calm, but bitterly sarcastic, stated that the testimony had been so profuse in regard to dead people that he thought he would be pardoned if he suggested the name of somebody, though dead, who had really had something to do with the case.

Reilly replied that by no "stretch of the imagination should the name of the distinguished Senator be tied up with the names of the people who have been mentioned that are dead."

The Court allowed the question.

Tying up again the link between Mr. Lamont and Senator Morrow, the Attorney General made Betty Gow repeat for emphasis that it was natural for her to have met Johnson when he was in the employ of Mr. Lamont.

In order to further prove that it was natural for the two to have been together, which he did sympathetically, he asked a series of questions in the form of statements: at that time she was twenty-seven years old, he was a young man and she was quite fond of him.

With a quiet sarcasm, characteristic of the Attorney General, he stated: "You had made no agreement with the Lindberghs that you wouldn't go out with any young men. . . ?"

Betty Gow smilingly answered the final question by agreeing with the Attorney General that Johnson was a "very nice young man."

Politely helping Miss Gow from the stand, he thanked her and asked if she would remain until the end of the trial.

JOSEPH WOLF

Officer Joseph Wolf, State Police officer stationed at Lambertville, about twelve miles from the Lindbergh home, was examined by Wilentz. When he arrived on the scene he found Officers Wolfe and Williamson of the Hopewell police. After a few minutes' conversation with Colonel Lindbergh, he went to the nursery and saw an envelope on the southeast window under which was the suitcase with the trace of mud on it. Wilentz showed him the original ransom note and he identified it as the one he had seen the night of the crime. He made his identification by the initials on the back of the note made by Trooper Kelly in the presence of all in the room. The witness said that when Trooper Kelly, the fingerprint expert, arrived, he put on a pair of gloves, picked up the note, brought it to a table in the center of the room and examined the envelope and note for fingerprints, but none were found. The witness then went out of the house and, under the southeast window of the nursery on which the ransom note had been found, he saw two indentations in the mud which appeared to have been made by the ends of two boards, similar to indentations that would have been made if a ladder had been stuck there. A little away from these indentations he observed a "large" footprint. Judging the size of the footprint by his own shoe, No. 9, he thought it was as large as that, if not larger. Detectives Bornmann and DeGaetano were the first arrivals he saw. He described his observations to them. They went to the nursery and he continued his examination outside. With the aid of his flashlight, he noticed a ladder about sixty or seventy feet in a southeasterly direction from the corner of the house.

Wilentz then addressed the Court and stated that he had a number of State Troopers to examine and since most of them were to give testimony pertaining to more than one phase of the ladder, he would like an arrangement whereby, for logical order, the troopers would be examined on direct and cross-examination on the particular points under discussion. Reilly agreed.

Defense counsel aggressively asked the witness under cross-examination what he had done to preserve the footprint. Officer Wolf had assigned a man to guard that particular section of the ground, but no scientific precautions had been taken to preserve the footprint. Reilly, stressing this negligence, asked if he had not realized the importance of it as future court evidence. The witness admitted the correctness of Reilly's contentions.

Building toward his climax, Reilly stated: "Now, as a matter of fact, you know there was no footprint there."

The witness retorted, "There was a footprint there." He was positive it was a man's print.

The officer again admitted negligence in not having taken the dimensions of the indentations. As far as he was aware, no attempt was made to see if the ladder found on the estate could have left those indentations. The witness referred to a woman's footprints [19] which had been observed underneath another nursery window.

When he stated he did not see the butler on his arrival, Reilly acted as though he had received some important information and completed his cross-examination.[20]

On redirect examination the Attorney General had Officer Wolf identify a photograph of a footprint as one that resembled the print he saw that night.

LEWIS J. BORNMANN

Lewis J. Bornmann, examined by Wilentz, testified that he arrived at the Lindbergh home accompanied by Detective DeGaetano. In the nursery he saw a number of children's toys, a crib, and on the southeast window ledge, an envelope.

Colonel Lindbergh said to him, "I think that is a note of some kind."

The covers of the crib appeared almost undisturbed. Under a window was a small chest of drawers and a black suitcase, on the top of which was a smudge of yellow mud. Directly in front of the

[19] These were made by Mrs. Lindbergh as she stood underneath the nursery window and threw pebbles to attract Miss Gow's attention.

[20] This may have been a subtle attempt to convey to the jury the possibility of Mr. Whateley's participation in the crime.

suitcase, on the floor, was another smudge and near the center of the floor still another. He made a brief sketch of the room. He also testified to the unsuccessful efforts to obtain fingerprints. He examined all members of the household and the indentations and footprints below the southeast nursery window. He described the ladder found as made of three sections, two sections connected with a dowel pin, and the third about ten feet farther on. The ladder was exhibited in the courtroom and the Attorney General casually offered it in evidence.

Reilly strenuously objected to its introduction at this time because no evidence, he said, had been thus far introduced to prove it was the one used at the house that night or that it was now in the same condition in which it had been found.

Trooper Bornmann stated that the ladder was in substantially the same condition, excluding the test markings. Wilentz again offered it in evidence and the defense objected. The Court gave Pope of the defense an opportunity to question the witness at this point before he would render a decision as to whether or not it was admissible. After a number of questions, Pope proved that the ladder had not been in the trooper's possession all the time. It had been taken apart, most of the nails had at one time been drawn out, and although the markings had been made for scientific tests, they had not been on the ladder originally. Pope objected and then he, Wilentz and Justice Trenchard walked up to the ladder and a heated conversation took place, which the Court ended by saying:

> It may be well that it is desirable before this ladder be actually offered in evidence that it be made to appear, so far as counsel are able to make it appear, in whose custody this ladder has been, and what has been done with it. I am not saying now that such proof is absolutely essential to the admission of the ladder in evidence; I am merely indicating to counsel that it might be desirable to present such proof as counsel are able to present upon those aspects . . . but in order that it may be done, I think the ladder should be marked for identification, so that it will be subject to the examination of such witnesses as counsel see fit to call and call it to their attention.

The ladder was offered and marked for identification.

After the witness demonstrated how the two sections had been connected by a dowel pin, he identified a three-quarter-inch chisel. With the identification of a photograph of the place where the ladder was found, his direct examination was completed.

Under cross-examination by Reilly, the witness repeated previous testimony. After an investigation of the grounds, he interviewed the members of the household. When the witness declared that he did not know the size of the butler's shoes, Reilly flared up and asked whether everyone that night, with the exception of Colonel and Mrs. Lindbergh, had not been under suspicion. Wilentz objected to the trend of the question and a heated argument arose. Reilly emphasized his point with an oratorical description of the importance of the crime and of the duties of an expert detective. He argued that the size of Whateley's shoe was very pertinent.

Defense counsel finally got the witness to admit that "to a certain extent" he was to have investigated everyone except Colonel and Mrs. Lindbergh. The witness appeared somewhat irritated and when asked, "and you knew it wasn't the Colonel's footprint . . . ?" he answered, "and I knew it wasn't the butler's footprint." Reilly made him appear ridiculous because of his lack of proof that the footprint had not been made by Whateley. The witness then stated that the woman's footprint had been made by Mrs. Lindbergh; he took Betty Gow's word without measuring her shoe, that she had not been out. Reilly then questioned the exact whereabouts of the butler between eight and ten o'clock and the witness declared that the butler's every statement had been proved correct. Trooper Bornmann gave the impression of trying to tell as little as possible and there seemed to be real hostility [21] between him and defense counsel.

FRANK A. KELLY

Trooper Frank A. Kelly, a member of the New Jersey State Police, was next examined by Wilentz. For the past six years, as a result of an injury which incapacitated him for active duty, he had been assigned to identification work in the police department. He

[21] Following Hauptmann's arrest, Detective Bornmann, representing the State of New Jersey, took possession of the Hauptmann home and made it his residence. The defense claimed he did not coöperate with its investigators in allowing full latitude in the inspection of the apartment.

clearly described the nursery and his efforts to obtain fingerprints on the various articles in the room; no fingerprints, only smudges, were found. He identified his initials on the various sections of the ladder. He stated that it was the same one found the night of the crime and that he personally had taken it to Washington, D. C., where certain tests had been made. From March 1st, 1932, until June, 1932, he had the ladder in direct custody. He then gave it to Police Captain Lamb.

In regard to the smudges on the floor of the room, the witness stated that the only test of the dirt in the nursery had been a comparison with the color of the dirt in the yard. All the photographs he had made of the various articles in the room, were admitted in evidence. He stated that he placed the ladder in the indentations on the ground underneath the southeast nursery window and photographed it from that position. The second section had rested against the house and there were markings about the width of the uprights, where the paint had been rubbed off. Reilly objected to the photograph because the position of the ladder was not the one in which it had been found. The Court allowed Kelly to describe the experiment. The markings indicated that the uprights had been placed in that position, as some of the white paint had been rubbed off and found on the top of the uprights of the ladder. Defense counsel objected to the witness' conclusion but the Court permitted it.

On January 8th, Wilentz continued with Trooper Kelly's direct examination. Again the nursery was described with the table not in the exact center, making it possible for one to have walked from the southeast window of the nursery to the crib without any obstruction. The witness admitted that the two imprints under the southeast window had apparently been left by the ladder as it had been propped up against the house; he did not measure them.

Confidently, Reilly cross-examined the witness about his qualifications and expressed surprise at his ignorance of the Bertillon fingerprint method. Kelly thought that the Henry System, which he used, was equally good. Reilly enumerated the persons who had been in the room prior to the kidnaping, stressing Betty Gow's activities, and again evincing great surprise at the lack of fingerprints. Kelly appeared hostile, evasive and on the defensive. His excuse for not having taken an impression of the footprint was that Detective DeGaetano had taken the measurements. He identified photographs which he had taken of the footprint, and other parts of the estate and the nursery. On redirect examination he stated that the ladder was tested between 1 and 1:30 A.M. March 2nd.

NUNCIO DEGAETANO

Detective Nuncio DeGaetano, examined by Wilentz, confirmed the testimony of the previous witness. In referring to what had previously been described as a footprint, he stated: ". . . I couldn't exactly say it was a footprint. . . ." He noticed ridges on the side of it. (Owing to legal technicalities he could not now, in court, describe these ridges or conjecture as to how they had been produced.) He noticed the ladder indentations; he saw the ladder, approximately sixty-five feet away from the house. With the exception of identification and test markings, he claimed the ladder to be the same as the one he saw that night.

He had measured the footprint and it seemed curious to hear him give measurements of a vital clue as approximately twelve to twelve and a half inches in length and approximately four to four and a quarter inches in width. Asked to describe the ridges again, the witness declared that he had seen similar ridges made either by heavy woolen stockings or a sweater. Defense counsel objected that his answer was an opinion, and the subject was not further pursued.

Reilly cross-examined at length as to the condition of the soil that night and the exact location of the footprint and ladder indentations from the side of the house. Defense counsel insinuated that the photographs in evidence had been arranged to suit a theory. The prosecution strenuously objected. Reilly was laying important groundwork for his theory that when the ladder was placed against the house, it did not reach the window. He expressed amazement at the detective for not having looked for mud on the lowest ladder rung. The witness had remained about eight feet away from the ladder so as not to disturb any possible evidence.

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The witness created an unfavorable impression, and his testimony shocked not only defense counsel but everyone else in the courtroom when he said that he had measured the footprint without kneeling down alongside of it. He had bent over it and held the handle of his flashlight parallel to the footprint. In that unscientific manner he had secured the measurements of such an important piece of evidence. He admitted that he could have gone into the house and obtained a tape-measure. The handle of his flashlight was fourteen and one-half inches long; thus he insisted he was able to obtain the measurements of the footprint. He had measured the width of the footprint with the palm of his hand. He admitted that his figures were guesswork and he did not know whose footprint it was. Reilly triumphantly completed his examination and successfully overcame what could have been the most vital bit of testimony in the whole case if any intelligence had been used the night of the crime.

AMANDUS HOCHMUTH

Amandus Hochmuth, eighty-seven years old, was next examined by Wilentz. A little confusion, caused perhaps by nervousness, was apparent in his bearing and this, coupled with a marked senile tremor, allowed for speculation about his mental faculties.[22]

The witness located his residence at the corner of Mercer County Highway and the road which led to the Lindbergh estate. On March 1st, 1932, he stood on his porch and saw an automobile come around the corner. As it came abreast of him, it was not more than twenty-five feet away. He saw a man in it who looked out of the window and glared at him, "as if he saw a ghost." Hochmuth tried to imitate the man's facial expression. He declared that the man he saw that day in the automobile was now in the courtroom. He pointed, saying, "Alongside of the trooper there." As he pointed with the right index finger, his arm extended, a marked tremor was noticeable. Just as he raised his arm the lights in the courtroom went out and the room was filled with a dead grayness.[23]

[22] In view of his age and the marked tremor associated with it, many were of the impression that Hochmuth was mentally incompetent. There is, however, no relationship between this type of physical tremor and mental competency.

[23] Outdoors a thickening gray fog robbed whatever light that wintry day possessed. Even the illumination of the courtroom could not dispel the feeling of darkness. During recess, members of the defense counsel stated that the failure of the lights was a good omen as a higher spirit knew the witness was lying and created darkness to prevent the identification. Members of the prosecution in reply stated that when a man is electrocuted, the lights in the prison are dimmed. The light went out because of some outside interference due to the addition of new trunk lines by the Telegraph Company.

After the lights had been repaired, Wilentz asked the witness to "step down" and point out the man. Reilly would not permit this to be done until the Attorney General ordered the witness to point out the man and describe him specifically from where he sat. The witness complied and indicated Hauptmann. Leaving the witness chair, he went to Hauptmann and touched him. His gait revealed a generalized tremor. When he returned to the stand, Wilentz asked to have it recorded that Hochmuth touched Bruno Richard Hauptmann. The words were uttered with telling effect.

Hochmuth stated that the automobile was on the Mercer County Highway, and the nearest town from which it could have come was Hopewell. He was interested in it, because automobiles turning that corner usually went into a ditch if the drivers were strangers and not aware of the curve.

A few minutes later Wilentz asked, ". . . Was there a ladder in the car?"

The witness answered, "I saw something, some of the ladder in it."

Reilly objected but was overruled by the Court.

The automobile was a "dirty green" color.

The witness, under cross-examination by Reilly, denied ever having told his story to anyone before he took the witness stand.

Defense counsel, emphasizing each word, and pleading for the witness to be truthful, asked: "You give me your word on your oath that that is correct?"

Hochmuth, appreciating defense counsel's dramatic appeal, replied, "Certainly I do."

Aggressively hurling question after question and not allowing time for responses, Reilly indicated that the witness had been in the courtroom the previous day listening to testimony and observing the defendant. Wilentz jumped up and accused Reilly of not permitting the witness to answer and of badgering him.

Then in a soothing voice he reprimanded defense counsel: ". . . No necessity to shout at him."

After a little tilt about badgering and shouting, Wilentz asked that the witness be allowed to answer.

The Court agreed saying, ". . . Mr. Reilly understands that. . . ."

Again there was rapid firing of questions by Reilly, after which he inquired: "Do you remember the State Trooper pointing Hauptmann out to you yesterday?"

While Wilentz was objecting, the witness denied it. He explained that his departure from the courtroom several times was only to go to the toilet, but Reilly would not accept this and a heated argument between counsel ensued. When Wilentz again accused Reilly of badgering, Reilly protested and the Court decided in his favor. The witness then went on to say that he was not in business at present; he had been last employed as a special officer in a theater. Prior to that, he had been employed in a New York City bank.

With a sudden change of subject, Reilly asked, as though stating a fact, "Your health is rather poor, isn't it?"

The witness raised his head, squared his shoulders, straightened out his body and in a bragging manner replied, "It don't seem like it."

To Reilly's comment that he was very shaky, the witness answered that he had rheumatism. He denied ever having had a stroke.

Reilly asked, "Are you near-sighted or far-sighted?"

He replied, "My eyes are all right."

His response angered Reilly and he answered: "I didn't ask you that, Mister. You are wearing glasses."

The Court allowed the answer to remain and the argument was settled.

Reilly rather won his point when he asked: "Why do you wear the glasses, to see better?" The witness replied: "At a distance, yes; for reading, I read without glasses."

When led to describe the man in the automobile the witness said that he had a red face and glaring eyes. Reilly, taking advantage of his own florid complexion, asked if the man's face were a little redder than his. He was much elated at this point as the jury as well

as the spectators focused their attention on Hauptmann's cadaverous color. Reilly desired now to close his cross-examination abruptly, with the important admission that the man the witness saw had a very red face and piercing eyes. But suddenly changing his mind, he continued with a discussion of the trooper's procedure in having the witness identify the defendant.

Under redirect examination, most of Wilentz' questions called forth objections and no further information was elicited.

On re-cross-examination, the witness testified that in 1874 he was employed at the Hudson River State Hospital, but he was not an inmate. Reilly then asked for the exact dates he had seen Hauptmann's picture in the newspaper and the exact date and day of the week that he had seen him. The witness was unable to be very specific.

J. J. LAMB

Captain J. J. Lamb under direct examination by Wilentz stated that since June 1st, 1932, when Trooper Kelly gave him the ladder, he had it in complete possession until he gave it to Arthur Koehler. Reilly reserved the right to cross-examine the witness at a later date.

ARTHUR KOEHLER

Arthur Koehler, examined by Wilentz, stated he was a wood technologist in the Forest Service of the United States Department of Agriculture. He lived in Madison, Wisconsin, and at various times since the kidnaping of Charles A. Lindbergh, Jr., had received from Captain Lamb the ladder found on the Lindbergh estate. He identified some of the alterations on the ladder as his. When he had finished his tests on the ladder he had returned it to Captain Lamb.

Reilly then asked if the witness might be cross-examined later and Wilentz agreed, but Pope, of defense counsel, insisted upon taking the witness through a cross-examination. In answer to Pope, Koehler stated that there had been alterations on the ladder by somebody else and he had not been present when they were

made nor did he know who made them. He had removed the nails from the ladder and given them to someone for safekeeping; when he was ready to reassemble it he was given the nails. He was not able to state with legal certainty that the nails originally turned over to his assistant were the same he had put back into the ladder.

Pope was proud of what he thought to be a very important admission. He summed up the discussion of the nails and said that the witness was unable to testify positively that the nails now in the ladder were the ones Koehler had removed from it, and that each nail had been put back into the hole from which it had been removed. After Pope had made Koehler admit that there were times when he did not have the ladder in his possession, that certain alterations were not made by him, or in his presence, and that he never saw the ladder in Washington, the cross-examination was completed.

Wilentz then confidently offered the ladder in evidence. Pope, aware of the importance of its introduction, sought to prevent it by framing his objections in a manner to imply that the whole procedure and discussion about the ladder were ridiculous. His objections were repetitious as he attempted contemptuously to negate the value of the ladder as evidence. He said:

Well, of course, we object to the reception in evidence of this ladder at this time for the same identical reasons which we offered and placed in the record when it was first offered by the Attorney General, and for the additional reason that it now appears from the testimony of this witness that he took the ladder apart, that the nails were withdrawn, and that they were handed over to someone else; that after he did his experiment or inspection he helped put the ladder back together again, and that he used nails that were handed to him by someone else; that he does not know whether they were the same nails that came out of the ladder or not.

It also appears from the testimony of this witness that a saw-cut has been made in one of the rounds of the ladder, which was made by him. It also appears from his testimony that between the time he thus sawed this ladder and the time it was brought to him again, one of the uprights had been sawed in two, so that it was necessary to attach

a small piece of light-colored board to it in order to hold it together. The ladder, therefore, is not in the same condition, that it was or in approximately the same condition and it is not shown to be in the same condition it was when it was discovered, as is testified here, on the Lindbergh estate . . .

In addition to that, sir, it appears from this witness's testimony that the ladder has been in Washington, that somebody else has had possession of it; that it has been here, there, and at various places, and its course has not been traced, nor have we had an opportunity to examine as yet all of the men that have had the custody and the handling of this ladder between the time it was found and today when it is being offered into evidence . . .

There is absolutely no connection, either by circumstance or by direct evidence, between this ladder and the accused, and until this ladder has been placed in the possession of the accused, or until there is some evidence in this case which would tend to show or which would be sufficient to go to the jury, to have them consider whether or not the ladder was ever in the possession of the accused, this ladder is not evidential against this accused . . .

As Pope finished, he sat down pompously as though he had covered the entire subject and there was no doubt but that he was right. The Attorney General rose calmly and in a pleading tone addressed the Court:

Your Honor please, taking the last suggestion of counsel and reason first, we represent to the court and to our adversaries that we will connect this ladder with Mr. Hauptmann, but that is beside the point altogether. We have already connected it so far as the scene of this crime is concerned and as being the ladder and it is certainly evidential as to that.

My understanding of the objection the other day was that the only thing that was left was the question of connecting up the custody of this ladder and whose custody it was in. We have now proven that and counsel has shifted on the theory that someone said it had been in Washington at one time, and if your Honor may remember, I will call it to counsel's attention, that while Trooper Kelly was in the stand he said that that ladder was in his custody continuously, that during that time he took it to Washington for tests, but he was there, locked it in a safe at night and took it out in the morning and then brought it back and in June he delivered it to Captain Lamb. Now we produce

Captain Lamb and we connect the possession of the ladder with Captain Lamb for the entire period except for those periods that the government agent had it in his custody when he performed on it in such manner as he will testify at a later time.

So that we have proved the custody. Now there is some objection about the nails. I take it after all that this is not a cross-word puzzle, that we are all supposed to be of average intelligence and if these are not the same nails, that will develop. May I say to your Honor and to counsel that we promise your Honor that we will show everything there is to be shown about the nails too. But this is the ladder that was on that scene according to the man that was there. We have connected it step by step into the hands of this man and back to Captain Lamb for three years and we will run it right into Hauptmann. Now if that is what they want I promise your Honor that it is certainly evidential.

Pope jumped to his feet, and imitating the Attorney General's plaintive tone and this time more serious in his delivery, addressed the Court:

I do not want to prolong the argument, if your Honor please, but we are not willing to accept that promise because we do not know what they think or consider or believe in their own mind to be in the nature of circumstances which may connect this ladder with the defendant. We are here defending a man for his life and his every right must be and will be protected by this Court, and we insist that this ladder shall not be admitted in evidence in this case as evidence against him until he is shown to have been connected with it in some way. Now my objection to the ladder goes further than the Attorney General seems to think it does. Our objection is, of course, that it has not been shown who had possession of this ladder and what each person did with it every time it passed from one hand to another. Kelly didn't say who had it or who used it or what they did with it in Washington.

We don't know what has been done to this ladder until we have the witnesses on the stand and are permitted to cross-examine them and find out what they did with it . . .

Our objection is also that the ladder is not in the same condition that it was found, that it has been changed. They have sawn pieces of wood off of it, and they have sawn it in two, and they have taken it apart, and they have tried to put it back together again, and with what nails we don't know—where the nails came from or who put them there. It is all very well for the State to say "We are going to connect up this ladder with the defendant"; but our duty and our obligation to a man on trial for his life is to see that the ladder is connected up and brought home to him before it is permitted to go in evidence in this case, and that is what we appeal to your Honor to help us do."

The Court ruled: ". . . For the moment I think I will defer the admission of this ladder in evidence," thus clearly indicating he would admit it later. Wilentz elatedly accepted the decision and discontinued the examination of the witness. Trooper Kelly was recalled and was unable to state just how, when or where one of the alterations on the ladder had been made.

J. J. SWEENEY

Lieutenant J. J. Sweeney, of the Newark police, was next examined by Wilentz. He had been assigned to the Lindbergh case on March 2nd, 1932, and experimented with the ladder in the presence of several State Troopers. He said that they put it in such a position as to allow the foot of it to fit the indentations under the southeast window; it became obvious that the three sections could not have been used in that position. The angles revealed that only two had been used, and that the topmost section had been discarded. When the two sections had been placed according to the indentations, the ladder marks against the wall of the building showed where the ladder rested against the masonry.

Reilly objected to the last part of the answer because it called for a conclusion. The Court directed the witness to tell just what he saw, and he answered, "Scrape marks." He declared these marks had been about thirty inches below the nursery window sill.

The distance between the scrape marks on the wall and the uprights of the second section had been identical. The investigation was aided by the use of another ladder alongside of the one alleged to have been used by the kidnaper. Owing to the condition of the kidnap ladder, it would have been dangerous to use.

A magnifying glass revealed small wood splinters present on the scrape marks of the masonry. The garage ladder used was so arranged that one of the rungs was parallel to the uppermost rung

of the kidnap ladder and from that rung of the garage ladder, he was able to get through the window without any difficulty. Lieutenant Sweeney said that he weighed one hundred and seventy-five pounds.

Because of his desire to make the experiment more positive, he removed the kidnap ladder and put the garage ladder in the same position in which it was thought the former had been used. In that way the height of the garage ladder was identical with the height of the extension ladder. After climbing to the top of the ladder, he put his left knee on the window sill, squirmed around a bit and put his right foot in and stepped down on the nursery floor. He denied that it was very difficult. The Attorney General completed his direct examination, stressing the ease of entry into the nursery.

Upon cross-examination by Reilly, the witness stated that during the experiments the window was up, the shutters had not been drawn and he never had gone up the ladder while the window was closed and tried to open it.

Pope, ever alert in regard to experiments in wood, interrupted Reilly who, pleased at the interruption and eager to honor Pope, asked, "Mr. Pope suggests did you, in making the experiment, close the window?"

The witness replied, "No, sir."

His response seemed to highly please members of defense counsel and they did not refrain from registering their pleasure openly. Reilly, attempting to ridicule the experiment, asked in a derogatory fashion whether the State Troopers held the ladder for him during the test. The witness then explained to defense counsel just how he went through the window.

Reilly suddenly inquired, "Have you ever been a fireman?"

When Sweeney replied that he had, the ensuing laughter was utilized by Reilly to its fullest advantage.

The witness was asked in detail as to how he had gotten in and out of the room. When he agreed that both arms had been busy, the significance of his reply was allowed to reach the jurors before defense counsel continued. At every opportunity Reilly would ask whether both hands had been busy during the experiment. The witness' affirmative replies continued to elate the defense. The witness was made to measure the sections of the ladder in the courtroom. After he explained how the two sections had been joined, Reilly asked him to put them together and rest them against the wall. The witness said he could do it if he received help. Reilly fairly bellowed the significant question, "Can't you do it alone?" He calmed down when the witness stated that he could.[24]

In discussing the arrangement of the sections of the ladder, both Reilly and Pope tried to confuse the witness as to the bottom and top of it. They wished him to reverse it, but in the resultant confusion he succeeded in getting the upper hand. The distance between the rungs of the ladder and the distance from the top rung to the window were also discussed. The last questions, which pertained to reversed position of the ladder, closed the cross-examination.[25]

Under redirect examination Wilentz made the witness measure the ladder in the position it would obviously have been in when used. The witness maintained that it was not difficult to get in and out of the window; he could have emerged from the room with a package in his arm and could have carried both the package and the ladder about seventy feet without any difficulty. His attention was drawn to the split in the ladder, which had occurred in the weakest portion of it. If it had had to sustain a weight greater than that for which it was constructed, it would have split in just that part.

On re-cross-examination, Reilly brought out that the witness did not know who had split the ladder, that he never went out the window with a bundle in his arms and had never actually carried the ladder seventy-five feet. He finally forced the witness to declare that he was only speculating as to what might have happened if the experiment had been conducted properly.

[24] The witness' request for aid in handling the ladder negated the impression created by Wilentz. The Attorney General, whenever the ladder was brought into the courtroom, made a special point of carrying it in one hand to convey the ease with which it could be handled.

[25] Reilly successfully converted the witness' testimony of his unscientific experiment to the defendant's advantage. The attempt, however, to measure the ladder in what was obviously the position in which it could *not* have been used, negated his victory. Surely the jurors knew the difference between the top and the bottom of the ladder.

Defense counsel, stressing the absurdity of the technique, said, "Unfortunately you did not do it although you were there to investigate."

He closed his examination with the intimation that the State's witness had proved the defense's case.

Wilentz, realizing the loopholes and errors, and somewhat angry, fired one question: "You didn't take the Lindbergh child out of the window, did you?"

* * *

The jurors and spectators listened to this testimony with great interest. The experiment relating to the possible use of the ladder would have proved of tremendous value if Lieutenant Sweeney had conducted it properly. It was beyond belief that police officers should have made what they thought an experiment in the fashion indicated by the lieutenant. It was the most unscientific piece of detective work in the entire case.

J. A. PERRONE

J. A. Perrone was examined by Wilentz. In March, 1932, he lived in the Bronx, New York, and still resided there; he was a taxicab chauffeur, having had a license for about sixteen years. He went to J. F. Condon's home at 2974 Decatur Avenue on March 12th, 1932, because a man had given him an envelope to deliver. He identified Bruno Richard Hauptmann as that man. Wilentz asked Perrone to come down from the chair and make a specific identification.

Perrone walked to the defendant, placed his hand on Hauptmann's shoulder and declared, "That is the man."

Hauptmann cried out, "You're a liar."

Reilly insisted that Hauptmann's outburst be recorded as he wanted the record correct, insinuating that it was being falsified. Wilentz objected to the interruption and bitingly declared that if the stenographer wanted a correction she did not need the assistance of "eminent counsel." Reilly replied that he was prepared to prove by five or six persons seated near Hauptmann that he answered the accusation. Wilentz retorted that he did not hear any answer, but Reilly insisted it was heard and the Press heard it.

The Court ruled: "The Press may be called as witnesses at the proper time, Mr. Reilly. If there is any such thing as that, you will have an opportunity at the proper time to show what was said; but let the record stand as it is for the moment."

The Attorney General then asked the witness to state under what circumstances he had delivered the envelope to Condon. His voice, almost a whisper because of nervousness, made his testimony almost inaudible, amid the noise in the courtroom. He had to be told by defense counsel and the Court to speak so that he could be heard.

Perrone happened to be at a hack stand at Mosholu Parkway and Jerome Avenue in the Bronx on March 12th, 1932, in his taxi. After he had driven a young man to an address on Knox Place, he started east on Gun Hill Road. He had come to the intersection of Knox Place and Gun Hill Road when a man ran toward him with upraised hands and signaled. As he stopped the taxi, the man tried to open the right front door opening into the driver's seat. Perrone indicated that he should wait until the window was lowered. The window open, the man asked if Perrone knew the location of Decatur Avenue. The witness, familiar with that neighborhood, did know it. The man then put his hand in his overcoat pocket, extracted an envelope and, looking at it, asked the witness about No. 2974. Satisfied with his reply, the man, having looked around, again put his hand in the same pocket, removed a dollar bill and gave it to the witness. Perrone was not verbally instructed to deliver the envelope, but knew by implication that he was to do this.

After the transaction, the man walked to the rear of the taxi, and Perrone noticed him recording the license number. Reilly objected to the description of the writing of the license number because it called for the witness' conclusion. Defense counsel was willing, however, to allow the witness to say that he observed the man writing something while his eyes were focused on the license number.

The witness, although seated in the front, continued to observe

this man in the rear. Despite Reilly's objections, the jury received the full import of the testimony.

After the man finished writing he waved his hand, and the witness interpreted it as a signal to drive on. He headed for his hack stand and flashed the envelope and dollar bill to James O'Brien, who asked his destination. Reilly objected strenuously as the witness began to repeat conversation.

Disgustedly, the Attorney General said: "Well, whatever you told him, you told him something and then what did you do?"

Perrone delivered the envelope. He rang the door bell and Dr. Condon opened the door and asked him to enter. Defense counsel, ever alert for legal technicalities in Perrone's examination, objected. Wilentz then instructed the witness to tell of his actions.

Perrone gave the envelope to Condon who asked, "Would I know this man again if I saw him, and I told Dr. Condon—"

Reilly interrupted with an objection.

Wilentz annoyed, replied, "Well, never mind; never mind. Counsel objects to it. We will forget that part of it." Wilentz continued, "At any rate you delivered the note, didn't you?"

The witness answered in the affirmative. He stated that the actual fare from where he had received the note to its destination was only fifty cents and the surplus had been a tip. Because of an arc light on the corner, it had been very easy to observe the man; it had been approximately 7:45 P.M. He knew where Woodlawn Cemetery was; it was about two miles from where he received the note; St. Raymond's Cemetery was about six miles away and Condon's home about a mile. Hauptmann lived about three miles away from where the witness received the note.

The Attorney General, with telling effect, asked specific questions which allowed the witness to answer that only one man had stopped him, Bruno Richard Hauptmann.

In order to impress that fact, Wilentz inquired: "Now Perrone, there is no question in your mind is there, or is there any question, that this is the man, Hauptmann, that gave you the note that night in March?"

This Wilentz withdrew after Reilly's objection and substituted: "Is there any question at all in your mind as to the identity of Mr. Hauptmann being the man that gave you this note?"

Again Reilly objected.

Wilentz, appreciating the situation, and taking full advantage of Reilly's objections,[26] stated in an exceptionally soft and sarcastic voice: "If he does not want it that certain, let it go at that." Turning to defense counsel, each word carefully measured, he stated, "Take the witness."

Reilly, aware of Perrone's nervousness, deliberately snapped his questions under cross-examination. The witness admitted that he was living in the State Troopers' barracks in West Trenton and that he was working for the CWA. His answers were whispered, and he was requested to raise his voice and remove his hand from his mouth while speaking.

When the witness stated that he worked for the CWA and also ran a taxi, Reilly snapped at him, "Let's have the right answer."

Wilentz, ever careful to defend the witness, although annoyed with his voice, declared, "Let's have the answer he gave if you don't mind, please."

Perrone explained that prior to having gone on relief he had made perhaps twenty to twenty-five dollars a week as a chauffeur. On relief he was getting twelve dollars a week from the city.

Reilly suddenly hurled, "Don't you know you secured your position with the CWA through the influence of people connected with this case?"

The witness immediately answered, "No, sir; it is not."

The Court did not see that the question was material, but Reilly effectively argued that the credibility of the witness was in question.

He stated, ". . . We are giving him a job in the CWA, and paying $12 a week, and at the same time he is driving a taxicab."

Wilentz, softly sympathetic, replied that the witness happened to be less fortunate than some who did not have to do that.

Reilly, pompously, and with especially poor insight into the psychological importance of his attitude toward the jury of an-

[26] Despite the legal correctness of objections, there are many times perhaps when it would be of greater psychological value to make less use of this legal right. Jurors have repeatedly stated that they interpret objections as an attorney's method of preventing the admission of truth into the evidence. Repeated objections make them especially conscious of the importance of the question under consideration. This incident is an exceptionally good example.

other State, declared, "That isn't the practice of our rules in New York. . . ."

Reilly attempted to indicate that Perrone was guilty of an illegal act, but Perrone effectively proved that the CWA did not give him more than three days' employment a week, and at that time individuals were permitted to do other work on free days.

The witness was still very nervous. When he was asked whether he had ever been convicted of a traffic violation, Wilentz objected and interrupted himself to advise the witness to keep calm. The Court allowed Reilly's question, and Perrone answered in the negative. Defense counsel asked whether he knew that Condon's name had been mentioned in the Lindbergh case on the ninth day of March or prior to that time. The witness replied that he had not read the *Bronx Home News* then and was therefore unaware of the importance of the educator's name.

He was asked to review all the incidents which happened to him on March 12th, 1932. He recalled that he took the taxi out of the garage at about 4:30 P.M. He was not able to give any information about his first, second or third passenger. He described the passenger who preceded Hauptmann's signal as a young man whom he took a short distance for which he received fifteen cents. A discussion arose as to the location of Gun Hill Road, Knox Place and the immediate vicinity. Now, upon being asked the exact time he was stopped, Perrone said between seven-forty-five and eight-thirty o'clock.

The Court asked, "And what was that day that this man waved to you?"

The witness replied, March 12th.

Reilly tried to prove that the locality of the incident was very dark and that the witness was driving fast. Insisting that the particular corner was well lit, Perrone maintained he was not going too fast.

Reilly sought to ridicule his story and inquired, "And what did this man do? Suddenly jump out of the bushes?"

The witness replied, "He came running through from Knox Place."

Again defense counsel tried to confuse him about the brightness of the lights, but Perrone still insisted upon the presence of an arc

light and succeeded in conveying the impression that the corner was well illuminated. According to him, the man wore a brown double-breasted coat and a brown soft hat, the front of which was not pulled down over his eyes.

Reilly then repeated that the front of the hat was not worn "like the way men wear them at all" and Wilentz objected to the phrase, claiming he had seen many men wear a hat as described by Perrone.

Mockingly gracious, Reilly turned to him and said, "Now, I didn't ask you to testify, General. You would make an excellent witness."

Wilentz, mindful of the compliment, insisted that his objection still stood, and he was upheld.

Picking up a soft hat from one of the tables, defense counsel asked the witness if the hat were like the one he now held. When the witness asked to see it, Reilly became angry and stated he did not refer to the make of the hat. He only wanted to know whether it were soft or a fedora. Perrone stated the man wore a soft hat and the front of it was rolled or turned up a little bit more than the one shown to him; the hat had a seam all the way around, the edge was "beveled," so the brim had not been pulled down.

When Reilly suddenly asked the witness if he had worn glasses, Perrone confused, inquired, "Who?" Reilly cleared up the point and elicited that the man had not worn glasses, but that Perrone had.

Asked, "Are you near-sighted?" he answered, "Well, evenings, I am, yes."

Reilly replied: "This was in the evening?"

Perrone had not noticed the man's hands and defense counsel asked, "Well, he had hands, did he not?"

The witness replied, "He must have."

Defense counsel hurled at him, "What do you mean he must have; were you not looking at him?"

How the man handed Perrone the envelope seemed important to Reilly; the witness was unable to describe the procedure. He insisted that the envelope was handed to him. Reilly then made him describe what took place as he was given the envelope. The witness surprised defense counsel by stating that the man asked the cost of the delivery. The witness told him about fifty cents. Reilly imme-

diately reminded him that he had not included that in his direct examination. When the witness answered that he must have forgotten, Reilly sarcastically inquired if there were anything else he might have forgotten.

The witness did not reply and Reilly, pressing for an answer, was informed, "Well not that I can remember."

Defense counsel insisted that he must have seen the man's hands while he was writing, but Perrone, equally insistent, said that he had not noticed them. He could not say whether the hand had been bare or covered, large or small.

Reilly asked, ". . . How many times have you gone over this story?"

The witness, confused, inquired, "What story?"

Reilly sharply replied, "The story you are telling on the stand here now?"

Nervous, Perrone inquired, "How many times?"

Defense counsel added, "Have you told this story over and over again: fifteen, twenty times?"

The witness agreed.

Suddenly, Reilly inquired, "Who suggested to you that you should answer 'I don't remember whether his hand was covered or not'?"

The witness denied ever having been told that.

Reilly, thinking that he had been instructed, asked, "You know, don't you, that if his hand wasn't covered, the imprint of his fingermarks were on the envelope he gave you, right?"

The witness replied, "I don't know."

Reilly, who thought Perrone was lying, asked: "You don't know anything about that? Nobody ever told you anything about that or to be careful about that, did they?"

Perrone responded: "No, sir, nobody said anything to me."

Changing the subject, Reilly asked: "It is a fact that as soon as you rang Dr. Condon's doorbell, he came and answered the door?"

The witness agreed.

Reilly, in all questions about Condon's activities, tried to indicate to the jury that Condon seemed rather aware he was to hear from the kidnapers.

Perrone was examined by the New Jersey State Police about a

month and a half after he had delivered the note and during that time he had not discussed the episode with anyone else.

He thought he had given Condon his name and address when he delivered the note.

Seeking to break down the witness' ability to identify or recollect physical characteristics of an individual, Reilly asked if he could describe anybody who had ridden in his taxi on the thirteenth of March or on St. Patrick's Day, March 17th. Then, as though he had proved the witness a complete failure, he asked for a description of anybody who had ridden in his cab during the month of March or February, 1932. The witness was unable to comply.

The witness said he had not been promised any position by anyone and was not receiving daily payment for attending the trial. Reilly closed his cross-examination by having him state he had seen Condon only twice, and not since May 16th or 17th of 1932.

On redirect examination Wilentz stressed the witness' reason for having remembered the episode of the note, it being the first time such a thing had happened to him. Wilentz brought out that the witness had not known the various police officers prior to his delivery of the note. Technically, the form of the Attorney General's question was improper and Reilly objected.

The Court, aware of it, lightly censured counsel: "It is a leading question, and the witness is your witness, Mr. Attorney General and my suggestion to you is that you modify your question."

When Reilly aggressively objected to the Attorney General's question whether the witness had been called upon by the police to appear at various places for questioning prior to the arrest of Bruno Richard Hauptmann, the Court stated: "I am inclined to think that the door has been opened by yourself in respect to such an examination. I think that I will allow the Attorney General to ask the question."

Reilly graciously conveyed the impression that a great injustice was being done and stated: "Well, I can only bow to your Honor's ruling and ask for an exception."

Reilly's exception was granted and Wilentz completed the redirect examination with the witness' reply that he had been called frequently to numerous places.

JAMES J. O'BRIEN

James J. O'Brien was next examined and identified himself as a taxicab driver in the Bronx; in 1932 he shared the hack stand referred to by Perrone and confirmed previous testimony about having been shown an envelope addressed to Condon. The Court overruled defense counsel's objection when Wilentz asked the witness to give the name and address he had seen on the envelope. Defense counsel, however, did not cross-examine.

P. MILTON GAGLIO

P. Milton Gaglio, examined by Wilentz, identified himself as a clothing salesman and well acquainted with Dr. Condon and Al Reich. He was in Rosenhain's restaurant the evening Condon telephoned to the Lindbergh home. The witness volunteered to drive Condon to Hopewell and they were accompanied on the trip by Mr. Rosenhain. After having got off the road a number of times, they telephoned the Lindbergh home and were then escorted to the estate. After a short stay, the witness and Rosenhain returned to New York.

Gaglio also testified that when Perrone delivered the message to Condon, he was at Condon's home and personally checked the taxi driver's license.

Reilly then cross-examined the witness, who stated that although he had known Condon for a number of years he did not know what the title "Doctor" signified. He again repeated his observations of Condon's telephone call to the Lindbergh home.

Asked whether Condon had told him why he telephoned the Lindbergh home from the restaurant, Gaglio snapped, "He had no occasion to give me any explanation of that."

Defense counsel inquired: "And you never asked him why he didn't call Colonel Lindbergh's home from his own home, did you?"

The witness replied in the negative.

Reilly then discussed the route taken from New York to Hopewell and closed his examination with the witness' final remark that Condon did not know the way.

MAX ROSENHAIN

Max Rosenhain was now examined and identified himself as the proprietor of a Bronx restaurant. He had known Condon for years and described him as a good and frequent customer. He corroborated Gaglio's testimony, and Wilentz succeeded in emphasizing the fact that no one in the party knew the direction to the Lindbergh home.

Reilly's superficial cross-examination attempted to bring out that the witness might possibly be taking advantage of the publicity to be gained by testifying in so important a case. He asked if Rosenhain had any branch restaurants in New Jersey and the witness replied facetiously that he hoped to open one after the trial.

ALFRED J. REICH

Alfred J. Reich, next examined by Wilentz, declared that he had lived in New York all his life and for the past twelve years in the Bronx. Some time prior to 1925 he had met Condon and they had been very friendly since. Condon showed great interest in athletics and sports and they spent much time together at various sporting events.

Reilly at this time did not see how the evidence was material but the Court declared: "Well, it does not do any harm."

Reich stated that although he did not know the date, it was in the early part of March, 1932, that he drove Condon in his automobile to a deserted frankfurter stand about one hundred feet north of the last station on the Jerome Avenue subway in the Bronx. On having reached the frankfurter stand Condon left the automobile and walked over to the porch. Reich, however, remained in the automobile. He saw Condon pick up a stone with a note under it, stop under an electric light, open the note and read it. He then got back into the automobile. Reich drove him across the street which ran alongside of Woodlawn Cemetery and proceeded north to Two

Hundred and Thirty-third Street; the distance from the frankfurter stand to that corner was about a mile. He parked his automobile probably sixty feet south of Two Hundred and Thirty-third Street and Jerome Avenue and remained in the automobile when Condon got out. Describing the location in detail, he stated that it was an entrance to Woodlawn Cemetery and that the sidewalk of Jerome Avenue and the sidewalk of Two Hundred and Thirty-third Street and the entrance were so arranged as to form a triangle. There were three gates at that corner leading to the cemetery, i.e., three gates really made one side of the triangle, so that when he stopped his car, whereas he was about sixty feet away from the intersection of the road, he was only about forty feet away from the nearest gate.

He observed Condon standing in the center of the triangle. After five minutes Condon returned because of the cold. The witness was not permitted to tell of the conversation which took place between Condon and himself, but was allowed to state that Condon left again and went to the center of the triangle.

After the doctor had been standing in the triangle for about five or ten minutes, the witness noticed he walked to the gate. He saw Condon on the outside of the gate in conversation with someone on the inside. A man then jumped from the cemetery gate which was about nine feet high. After he had jumped from the gate, he ran north into Van Cortlandt Park. The witness then explained that north of Two Hundred and Thirty-third street, Van Cortlandt Park extends to both sides of Jerome Avenue. He saw Condon run after him for a couple of hundred feet and observed that they both went to a shack alongside of which was a bench. The witness insisted that the night was clear, which enabled him to make these observations. He then identified a picture of the shack.

Reich stated that the two men did not sit close together; Condon sat on one end of the bench and the man on the other. After about an hour, Condon returned and Reich drove him home.

On January 9th, Wilentz continued his examination and Reich described the scene at Condon's home on April 2nd, 1932, the night of the ransom-money payment. Colonel Lindbergh and Condon returned from their mission perhaps forty-five minutes after they left.

Under cross-examination, defense counsel tried to get the witness to identify himself as Condon's official bodyguard but he emphatically denied it. Reilly took considerable time in trying to get him to admit that he knew something about the insertion of the advertisement in the newspaper, but Reich proved otherwise. He called Reilly's attention to the fact that when Condon heard from the kidnaper and telephoned the Lindbergh home, he, Reich, could not be found, whereas, if he had been aware of negotiations, he would have been available. Pressed by Reilly, he was unable to give details as to who made suggestions and what took place at a conference on the afternoon of April 2nd, 1932.

Reilly expressed surprise that he did not go with Colonel Lindbergh and Condon to capture the recipient of the money. The witness insisted that this possibility had been discussed at length by police agencies, but it had been agreed to refrain. His implication was that such a procedure would have endangered the child's life. Reilly tried to prove Reich guilty of neglect in not having informed the police of the negotiations.

The witness answered: "I don't know, I wasn't one of the executives in this; I was just a dot on the 'i.'"

The Court was very angry at the outburst of laughter and threatened to clear the courtroom unless order was maintained. Reich did not seriously consider that either Condon or Colonel Lindbergh might have been in danger.

He had suggested that his automobile be used because he thought the kidnaper, having seen it once before, would not be suspicious.

Wilentz, on redirect examination, elicited that Colonel Lindbergh and Condon had entertained no thought of capturing the kidnaper; their only interest had been the child's safe return.

JOHN F. CONDON

John F. Condon, examined by Wilentz, proudly stated he was seventy-four years old.

Wilentz put a glass of water on the bench for him alongside of the chair and the educator politely said: "I thank you," facetiously adding, "I don't need it yet."

He was fully aware that he was holding the center of the stage and that all eyes were focused upon him. Instead of answering directly when asked where he had resided during the seventy-four years of his life, he poetically replied: "In the most beautiful borough in the world."

When Condon was requested to name it, Fisher jumped up and demanded the answer be stricken from the record. The Court declined to do so, but agreed with him that it was only an opinion. Fisher said it was his opinion that Flemington was the most beautiful place in the world.

Condon loquaciously said he was "righteously" entitled to be called "doctor" and said he had never been on the witness stand before. He had received his degree of Bachelor of Arts from the College of the City of New York in 1882, Master of Arts from Fordham University, and Doctor of Pedagogy from New York University. In his description of his degrees he became too voluble for the Attorney General, who politely stopped him, fully satisfied that he was empowered to use the title of "doctor."

Asked: "After and during the time that you attended college and schools what did you follow as a means of livelihood?" Condon started the story of his life, but Wilentz again interrupted him affably, "Well, you have been a teacher, haven't you?"

The witness replied, "Not all the time."

But Condon was beginning to realize that there were limitations to what he could say and that he was bound by procedure. As he said, "I was compelled—" he looked at the Attorney General and for some reason did not seem to like the expression on his face. Then he put his hand to his mouth, assuming the attitude of a little five-year-old well-trained child and asked, "Did I make a mistake?" Told by Wilentz he had not, he completed his answer and said, "I was compelled to help my father."

With the Attorney General's encouragement, he went on to say that his father had had eight children, seven of whom had become teachers in New York City. Early in life he had realized his father's great burden and had gone to work while studying to become a teacher, which was his life's ambition.

Condon appeared satisfied with his answer, proud of his father and his own recognition of the family situation. He had retired

from teaching as he did not want to take any money from the city to which he was not entitled, though the superintendent had asked him to remain. As he mentioned the superintendent's name he asked if he might praise him. He seemed rather offended that he would not be given an opportunity to laud his good qualities. Condon had retired in 1930, not in 1932 as he had previously said, and pointing toward the court reporter he requested: "Correct that, will you, please?"

Since his retirement, having a little capital, he had invested in real estate. Proving his thoroughness, he proudly stated that he had passed his examination as a realtor.

The Attorney General, now ready to discuss the night of April 2nd, framed his questions so well that Condon was forced to answer directly. He met Colonel Lindbergh at about eight o'clock that evening and accompanied him in Reich's automobile. He described Reich as "my friend and helper in real estate," and winked approvingly to him.

Asked where he went, he got out of hand a little and evidently annoyed that he could not give a description of the Bronx, stated: ". . . I do not know how much you know about the Bronx, but I was born there . . ." Pulled back to the question, he declared: "I went across Pelham Parkway to what is called Westchester Square in an easterly direction . . ."

Then he turned in a northeasterly direction until he came, as indicated in the note, to Bergen's Floral Station. There, under a table he found a stone, and under it a note. According to directions in it, he crossed the street and walked down Whittemore Avenue and met a man to whom he gave the money.

Asked to whom he gave the money, he replied: "John."

Wilentz knowing that a vital moment was at hand, slowly inquired, "Who is John?"

Condon, aware of the drama of that moment, replied: "John is Bruno Richard Hauptmann."

Allowing this significant and positive identification to take root with the jury, Wilentz calmly reverted to March, 1932, and asked Condon whether he had received a note as a result of a letter or an advertisement he inserted in a newspaper. Fisher objected.

Again the witness unaware of court procedure entered into the

discussion and then, looking at Justice Trenchard, apologetically said, ". . . I don't know the ways of your court. Excuse me, Judge."

Condon had received a note, and he identified it when it was exhibited. Wilentz offered it in evidence without objection and read it to the jury.

Wilentz called the jury's attention to the circles with the three holes and the red center and then asked Condon what he did when he received that note. Condon explained he came home late that evening after having lectured in four places.

Following several irrelevant statements, he said: "I found my letters, as I usually ask them to be placed, by a Tiffany clock that we happened by chance to have."

There he found that letter and thought it very strange. He felt rather proud and honored to think that the kidnaper accepted him. His first thought was to go and seek "the man who had so kindly driven me so many miles in different places in our borough." Stopping for a fraction of a second, he indicated his respect as he uttered, "Alfred J. Reich."

He went to Rosenhain's restaurant in search of him. A little excited, he said to Rosenhain, "Look here, I think I have—"

Reilly objected.

Again the witness did not allow the proper persons to direct the question. Looking at Reilly, he stated, "Yes, I beg your pardon, I know; I know better than that."

He telephoned Hopewell between eleven and twelve; he was not able to be more exact, but like a proud school boy who has a rare toy, he said, ". . . I had a stop-watch with me. I didn't take it out then."

Questioned as to why he did not use his home telephone, he indicated that he never used it for any purpose that might annoy his family. In this particular case, he did not go originally to telephone; he went to look for Reich.

He described the arrangements with Gaglio and Rosenhain for going to Hopewell, where they arrived a little after midnight. Colonel Lindbergh, Colonel Breckinridge and some police officers were present. At Colonel Lindbergh's suggestion, he spent the night there. He dramatically announced that he slept in the nursery.

As Condon started to repeat something that Colonel Lindbergh said to him, Fisher objected. The educator again joined the ensuing discussion.

The Attorney General by this time was a little annoyed with defense counsel and looking at Condon, said: "Doctor, you and I will do this and when there is an objection, please address your remarks to the Court instead of to me."

Condon seemed slightly hurt at the mild reprimand, but apologized to the Court for his interruption.

He identified an advertisement, inserted, as a result of a conference, in the *New York American,* which read: "I accept. Money is ready. Jafsie."

Wilentz weakened defense counsel's implications that Condon was a free agent, by getting the witness to reveal that the insertion of the advertisement was authorized by Colonel Breckinridge.

Because of a lecture at four o'clock the afternoon of March 10th, 1932, he returned to New York City by automobile with Colonel Breckinridge. Condon had left the notes with Colonel Lindbergh. Uncertain of the exact date of the reply to the advertisement, he knew that it was the Saturday after it appeared in the *Bronx Home News.*

He illustrated how he recalled events: "I learn all things by relation."

Wilentz was satisfied, but Fisher interrupted with an objection: "Why can't we have the answer fully?"

Wilentz, vexed, looking at Fisher, inquired, "Do you want the full answer?"

Condon proudly declared: "I remember all things according to my teaching by the relation of important things alongside of them. It is that way I teach, and I learn that way myself. Thank you."

The note received by him was accepted in evidence and read to the jury.

Wilentz indicated the similarity of the symbol and asked when he had received it. Condon placed the time between seven and eight in the evening. About fifteen minutes to one-half hour later he left his home accompanied by Reich. Implicitly following instructions, they drove to the frankfurter stand. The witness identified a photograph of it, which was admitted in evidence.

He walked on to the porch picked up the stone and underneath if found a note which Wilentz now read: "Cross the street and follow the fence from the cemetery. Direction to 233rd Street. I will meet you." It was admitted in evidence.

As he picked it up, Condon went under an arc light to read it, "thinking since I didn't see anybody I might attack the—" Fisher objected to the doctor's expression of opinion and Condon politely apologized. Wilentz, angry, used this opportunity to call the Court's attention to the fact that the witness was really following Fisher's original suggestion that he give "full answers."

The Court: I do recall.

Wilentz: I tried to stop him. My adversary wanted the full answer; which am I to do? Am I to regulate it according to the rules?

Fisher: I assume you are to follow the Court at my suggestion.

The Court: We will get along the best we can, Mr. Attorney General. It is true that your adversary did complain that you weren't allowing the witness to answer the question. Now you are doing that and now he complains that there is something or other illegal being said, and that we want to try to stop, if we can.

After having read the note, Condon got into the automobile and followed directions. He identified a photograph of the entrance to the cemetery. Fisher objected to its introduction in evidence. He wished to know more about it.

The Court agreed that the Attorney General call the photographer, but Condon again interrupted the Court and said, "I know, Judge."

Fisher persisted in his refusal to allow the photograph in evidence and asked if he could question Condon. It seems that when the photographer took the picture of the entrance to Woodlawn Cemetery at Two Hundred and Thirty-third Street and Jerome Avenue, two passing pedestrians were included in the photograph. Fisher stated that as these two pedestrians were not there the night Condon spoke with the kidnaper, the photograph did not represent the place as it was on that particular night.

Wilentz, mildly censuring Fisher, agreed to get the photographer. However, if Fisher preferred to be technical. . .

Fisher interrupted and said: "With the two men in there, if the Doctor says the two men were there I am willing to have it in."

The witness, as though he were the Court, assumed a paternal air toward Wilentz and turning to him said earnestly: "No. Tell the truth."

Wilentz, appreciating his suggestion, thanked him like a dutiful son.

After the car stopped, Condon got out and went to the cemetery gate. He took the letter out of his pocket, read it, held it in his hand, thinking thus to attract attention.

Before defense had time to object, Wilentz stated, "Not what you thought."

He saw a handkerchief being waved by someone inside the gate. The man's arm was projected through the bars.

He walked toward the man and said, "I see you."

Reilly objected to the phrase and the Attorney General, satisfied, said: "We will connect it with this defendant now, if your Honor please, and we maintain it was in this defendant's presence."

Condon, ever eager to be a party to legal discussion, and thinking it his duty to defend Wilentz, uttered emphatically, "Yes."

The witness was on one side of the gate and the man on the other; they were perhaps three feet apart and remained so about three minutes before the situation changed.

Condon pleadingly inquired, "May I say what he said to me?"

Wilentz acquiesced, but Reilly and Fisher objected.

It was agreed to identify the man first.

Wilentz asked: "Who is the man, as you found out later? What was his name?"

Reilly, blustering, exclaimed: "No. Who was the man then? Not what he found out later."

Condon identified him as "John" and then answered, "John is Bruno Richard Hauptmann."

Asked what Hauptmann said, Condon replied, " 'Did you got it, the money?' "

Condon told him he could not bring the money until he had seen the package. While they talked, there was a rustling of leaves behind Hauptmann on the inside of the cemetery.

Hauptmann said, "There is a cop." He caught hold of the bars, climbed them and jumped over the fence, landing in front of Condon.

The witness was questioned next as to the height of the fence, but he exhibited a marked desire to tell what followed, and when given the opportunity stated: "Hauptmann said, 'Did you sended the cops?' "

" 'No, I gave you my word that I wouldn't do that, and I kept my word.'

"He then said, 'It is too dangerous,' and started to run in a northerly direction . . ."

Condon, surprised that a man would run away from such an honest character as himself, yelled, "Hey, come back here. Don't be cowardly . . . here I am a poor school teacher up here in the cemetery and you leaving me here to be drilled. You are my guest . . ."

He then followed Hauptmann; they ran north into a little clump of trees near a shack and Condon went over to him and taking hold of his arm, said: "Hey, you mustn't do anything like that; you are my guest."

He led the man back to a seat by the shack and asked him to sit down on his right; they talked for more than an hour. Asked to describe the conversation, the witness said that he first reprimanded Hauptmann and then told him that he, Condon, was "square." As though before a class, looking at Wilentz, he orated:

". . . And the truth to a kidnaper is the same as the truth to a—" Wilentz raised his hand and he stopped. The Attorney General asked him to tell just what had been said. Condon stated:

"He said to me: 'It is too dangerous. Might be twenty years or burn. Would I burn if the baby is dead?' "

Condon replied: "Not if you did not have some part in it."

He answered: "I am only go-between."

Wilentz, realizing the importance of that evidence, interrupted Condon and again asked him who said, "Would I burn if the baby is dead?"

Condon emphatically answered, "John . . ."

Reilly, equally alert, said he wanted the witness to continue with, "I am only a go-between," and because of its significance,

added: ". . . I don't think the jury got it, and I don't think we got it at all."

Condon then sought to find out whether he was talking to the right man. At this point in his testimony, he lowered his voice and in a very dramatic manner, stated: "I trust if this hurts anybody's feelings . . . I may be excused."

He was satisfied, Condon testified, when "John" said, ". . . The baby was held in the crib by safety pins."

(Condon explained that on the night he had slept in the Lindbergh nursery, he had taken safety pins from the baby's crib first and then asked Colonel Lindbergh's permission.)

Condon started to praise "John" and said: ". . . What would your mother say if she knew that you were engaged like this? . . ." As he started to repeat the answer, Condon appeared as careful as counsel had been of his own rights as a witness, and asked if he could continue this form of testimony. Told he could, he gave Hauptmann's reply: "My mother wouldn't like it; she would cry." The witness gave the best imitation of the answer he could, but said he was not a good mimic.

Condon then told him: ". . . Leave that, leave that stuff. Come with me. . . I have a thousand dollars of my own available."

In an aside for the jurors' benefit as well as counsel's, the witness stated: "I didn't say that was all I was worth. I said 'I have a thousand dollars available . . . and you can have it.' "

The reply to this was: "We don't want your money."

Condon continued: "Well, leave them, I will give you that and I will go over to Jersey and collect the rest for you if it is within my power. There are a number of lawyers in my family, and if it is within the law I will get him to go with you to the last degree, but if you fail me, I would follow you to Australia. . . ."

In reply to Condon's offer, "John" said: "We won't. You will get that baby and put it in its mother's arms."

Condon, looking appealingly at Wilentz, asserted, "That was what I was out for."

Condon's request to, "leave them and come," was again refused, because "the leader would smack me up." "John," in answer to Condon's question, said he was Scandinavian, not German.

Warned he would be caught, "John" replied: "Oh no. We were prepared a year before, we were prepared to do this."

The witness, trying to be careful, asked if he could go ahead and if everything were correct. Told he could continue, he drew the lapels of his coat up to his mouth, imitating how "John" wore his coat. The witness said to him: "You have nothing to be afraid of. I have been square all my life and I am square now. You have nothing to fear from me. Take down that coat. . . Your fabric is too thin. I have got two coats, I will give you one if you are in want."

Condon apologetically stated he did not want to imitate "John's" cough which to him indicated the "inroads of pulmonary disease."

Condon said, "I will go as a hostage to the man that has the baby. Let me go." Realizing that the meaning of "hostage" was not understood, he explained: "What I mean, I will go and stay there until you get the money . . . let me with the baby. I have three toys belonging to—" Condon asked if he could continue and added: "I have three toys belonging to the baby and there are three words I know the baby knows."

He explained that on the night Colonel Lindbergh authorized him to go on with the work, he felt confident that—Reilly interrupted and inquired whether this was an observation or a conversation. As Wilentz started to answer: "It is a slight—" Reilly, finishing the sentence, uttered, "deviation."

Condon in his school-room manner approvingly agreed, "It is a deviation; yes, sir."

The Court then asked him: "Will you tell what happened between you and Hauptmann?" Asked from whom he had received Baby Lindbergh's toys, Condon said he had asked Colonel Lindbergh for them.

The Attorney General inquired: "What did you say to Hauptmann about the toys, if you said anything?" The witness replied that he had pleaded with Hauptmann to take him where the baby was. "Please give me a chance. I promised Mr. Lindbergh"—correcting himself—"Colonel Lindbergh and Mrs. Lindbergh, to help them get their baby. That is what I am out for, nobody else."

The reply was: "Nobody else shall ever get the baby but you, and you can put that baby's arms around Mrs. Lindbergh's neck."

The witness, disillusioned, now commented: "And I believed it."

In response to Condon's desire to see the baby, Hauptmann again repeated: "They would smack you down. The leader wouldn't stand for it. How could I tell you now? . . . There is a point here, and on that point I will stand and signal to them. There is a boat. They will see my signal and Colonel Lindbergh can get his plane and go right up there."

Asked if he had seen the child, Condon replied:

"I did not get to see the child, he said they wouldn't even propose it, that they would drill him. I said, 'Well, you musn't be afraid of anything like that, do what you think is right, while you have got time, for your mother's sake.'"

Later "John" declared:

"'Maybe you think we are not the ride—' the 'd' was accented on that more than his 't' in 'righteousness' and 'right,' and so on. He said that, 'we are the ride parties. I will send you the sleeping suit of the baby. Tell Colonel Lindbergh and Mrs. Lindbergh not to worry, that the baby is all right . . .'"

Finally "John" agreed to send Condon the baby's sleeping suit, saying, "Yes. I vaited too long already."

The two men shook hands and parted and Condon explained, ". . . I did not go to catch him. I wanted the baby . . ."

He very slowly and carefully examined an envelope and a note that Wilentz exhibited to him. The envelope was accepted in evidence and Condon stated that it had contained the baby's sleeping suit and two letters.

After a short recess, Wilentz then read the letter, emphasizing the peculiarities in spelling. Condon had carried out the orders in it and given Colonel Lindbergh the sleeping suit. Conscious of himself and careful of his grammar when asked again to look at the advertisement inserted in the *New York American,* he said, "Yes, I will." Correcting himself with a smile, he said, "I mean, shall." The advertisement, accepted in evidence, read:

"I accept. Money is ready. You know they won't let me deliver without getting the package. Let's make it some sort of c.o.d. transaction. Come. You know you can trust Jafsie."

Following its insertion Condon received another letter which was now admitted in evidence. Wilentz read it, again emphasizing peculiarities in spelling. In response to that letter another advertisement was inserted in the newspaper and another reply received. Condon identified the envelope and letter. The Attorney General read this letter to the jury, spelling out the errors. After having received this letter, the witness received still another, which he also identified. This letter was accepted in evidence and read to the jury.

On the receipt of this letter, Condon inserted, on April 2nd, the advertisement: "I accept. Money is ready. Jafsie." On that afternoon the money was brought to his home. Colonel Lindbergh, Colonel Breckinridge, Reich, Mrs. Condon and his children were there. In response to this last advertisement, a messenger delivered a note to Condon, which Wilentz now read to the jury.

Within a half-hour after its receipt, Condon, with Colonel Lindbergh at the wheel of Reich's automobile, proceeded to carry out the instructions contained therein. They drove to Bergen's flower store in front of which was a table. The shop was closed. Under the table was a stone and under that a note which was now admitted in evidence and read to the jury. Colonel Lindbergh remained in the automobile about one hundred feet west of the greenhouse. After Condon had picked up the note he walked back to the automobile and showed it to the Colonel. He then carried out the further instructions. On the corner he saw a man and a little girl and asked to be directed to Whittemore Avenue. They could not tell him because they were strangers. However, as the witness looked up at the avenue sign, he realized that he was on Whittemore Avenue. He walked on according to the directions, then, finding no one, began to retrace his steps.

Having got back to Whittemore Avenue and Tremont Avenue, he stood there and said aloud, "There does not seem to be anybody here . . . I will go over to see the Colonel."

As he made to depart, and walked perhaps ten or fifteen feet, he heard someone in a very loud clear tone call, "Hey, Doctor, over here."

Condon walked in the direction of the voice and again the greeting was repeated, not in such a loud tone, but loud enough for Condon to hear. Condon answered, "All right."

As he continued to walk, a voice behind the hedge called, "Hey, Doctor."

Condon answered, "All right." The voice back of the hedge asked, "Have you got it, the money?" It was the same phrase used the night of the conference at Woodlawn Cemetery. Condon answered that he had not brought any money. The voice replied, "Who is up there?" Condon's reply that it was Colonel Lindbergh brought the question whether the Colonel was armed. At first Condon said he did not know, and then denied it.

The voice asked immediately for the money and Condon answered, "Not till you give me a receipt showing me where the baby is." (Here he excused himself and said he had said "note" instead of "receipt.") Condon then told the voice that Colonel Lindbergh was not rich, that these were times of depression and asked why he could not be decent.

The voice replied, "Well, I suppose if we can't get seventy we take fifty."

Condon then went to the Colonel. He made repeated attempts to tell what he had said to him; Reilly objected and Condon could only state that he had seen him take what he thought was $20,000 from the top of the box and place it on the side, in the automobile. Closing the lid of the box, the Colonel handed it out of the window to him and Condon went back.

The man was crouched down under the hedge, and Condon observing that, vehemently requested him to "stand up like a man." He carried the money on his left forearm. He asked for the note, which was given to him with instructions not to open it as yet.

Condon stated earnestly and seriously that in answering the man he said: "I have never betrayed a confidence. I have carried out every order of both parties the best I could, I won't open it, I will take it up to Colonel Lindbergh."

Condon handed the man the money with his left hand and, because he was still crouching, ordered: "Stand up and look at

me . . ." Condon was very careful to turn over the money with his left hand so that the man's right hand would be engaged.

After the transaction was completed, the voice said, "Vait a minute." The man then put his hand into the center of the package, telling Condon that he wanted to see whether the money had been marked.

From outside the courtroom came disturbing noises. Condon, anxious to get his point across, asked Wilentz whether he could be heard. The Court ordered the State Police to put an end to the disturbance.

The witness stated that as he was about to put the note into his pocket, "John" said, "Well, all of them said your work was perfect."

He repeated that again in response to a query from Condon, who answered, "I know no other way to act. The truth again to a kidnaper is the same as it is to a Judge." Laughter greeted his remark and he turned to the Court and apologized.

Condon, continuing his story of his conversation with "John," said that if the bills had been marked he knew nothing about it.

To this "John" replied, "Oh, the crowd thinks you're fine."

Condon answered: "Well, if you give me a chance to get that baby, it will be all right; but if you don't, I will follow you to Australia."

In farewell, they shook hands and Condon said, "Good night, John. Remember, don't try to doublecross me."

During Condon's recital, Wilentz at first allowed him to use "voice" in describing the man behind the hedge; later he changed it to "John." When the description of the transaction was completed, he dramatically asked, "And John is who?"

Condon answered: ". . . Bruno Richard Hauptmann."

On being shown the note he had received in the cemetery, Condon identified it and it was admitted in evidence. He had given the note to Colonel Lindbergh and because they had been warned not to open it for six hours, the Colonel would not open the envelope at that time. Condon attempted to repeat his conversation with Colonel Lindbergh but Reilly objected. On the return from the cemetery they stopped at a little house which Condon owned, and read the note; it contained directions for finding the child.

When they reached Condon's home, they discussed the note with Colonel Breckinridge. Wilentz read the note to the jury.

At midnight, Colonel Lindbergh, Colonel Breckinridge, Reich, Condon and some special federal agents left Condon's home by automobile and went to the city home of the late Senator Morrow.

They then proceeded to carry out the instructions in the kidnaper's note but, after a long tedious search, the child was not found. Condon "felt hurt naturally" at not having found the baby and inserted an advertisement in the newspaper.

He identified the advertisement, which read: "What is wrong? Have you crossed me? Please, better directions. Jafsie." No reply was received. The Attorney General then asked when he had seen "John" after the ransom transactions. Condon had seen him in October, 1934, in the Greenwich Street police station. Looking at Wilentz, he softly added, "I didn't want to say prison."

Some time in August, 1934, while in a bus in the Bronx, in the neighborhood in which he now knew "John" resided, Condon had seen him on the street walking toward the woods. Because of the nature of the woods he did not pursue him. Condon had also seen "John" in the Flemington jail. Wilentz, most eager to impress the importance of this testimony on the jury, inquired whether Condon, in saying "John," was referring to the defendant Hauptmann. Condon emphatically said he was. He had described "John" to the police as perhaps between five feet nine and five feet ten and a half, well-built, active and athletic. He apologetically inquired whether he could use the phrase he had used previously in describing "John's" hair. Given permission, he answered, "Muddy blond." Asked how he had determined that "John" was muscular, he proudly stated, "I have trained about ten thousand athletes in my life, and they couldn't deceive me upon those inner muscles." He intimated that in his first interview, when he had said to "John," "Your coat is rather light fabric. I have two coats; let me give you one," his purpose had been to appraise the man's physical condition.

Wilentz, measuring each word carefully, asked, "So that this description that you give us now was the observation that you made of him at the time, is that right?" He continued, "And did you

give that description and observations to the authorities long and long before Hauptmann was ever arrested."

Condon emphatically answered: "Nearly two years, yes, sir."

As Condon was turned over to Reilly for cross-examination, the excitement in the courtroom gathered momentum and, amid the tenseness, the rustling of messages handed by reporters to messenger boys grew more noticeable. Spectators in the courtroom having heard rumors that Reilly had threatened to attack Condon's personal life, expectantly awaited the combat between the "eccentric old school teacher" and the florid, blustering defense counsel. Reilly, trying to appear at ease, entered into a discussion with the witness about the training of athletes and the various classifications of boxers. Defense counsel sought thus to flatter the witness and perhaps to lay a trap for catching him off guard. Condon, unaware, perhaps, of the subterfuge, was immensely pleased—and reached the peak of his pleasure in explaining to counsel the Marquis of Queensberry rules.

Reilly suddenly asked, "What am I, a heavyweight?"

Condon answered: "You a heavy weight? May I look?" Permission to do so was granted. Everyone was breathless, but the potentiality of the moment was not appreciated by the jurors.

Condon, leaving the witness stand, walked over to Reilly and, feeling his muscles, asked if he were hurting him. Reilly replied: "No, not a particle."

Condon, on returning to the stand, declared: "Undoubtedly a heavy weight."

Laughter greeted his comment and defense counsel then asked: "And I take it you yourself are a heavyweight?" Condon agreed and Reilly, looking right at him, politely though sarcastically said: "So we start even."

Condon, aware of the situation, leaving no doubt as to his implication, accented each word: "Right"—then stopped for a few seconds and added—"that is, physically." Again there was laughter.

Reilly, struck deeply by the reply, exercised extreme control in asking Condon if he were angry. Condon, using defense counsel's previous phrase, uttered, "Not a particle." The dramatic ability, poise and showmanship revealed by the witness probably caused

Reilly to sarcastically inquire if he, in the course of his many activities, had ever studied acting. Condon stated he never had, but explained that as a teacher and principal he had occasionally coached amateur plays. Condon's pride in his teaching was touched upon and he discussed, without any relevance, the division of the school year and his assistance in "English Expression."

He denied any explicit knowledge of "signs" except that which he had picked up incidentally in the preparation of his lectures; he had never read a book on "signs" and denied being the "John Condon" who, two weeks prior to the kidnaping, signed for a book in the New York Public Library entitled *Book of Signs* by Koch. Wilentz heatedly objected and expressed his opinion that the question was improper. Because of the witness' eagerness to answer, the Attorney General withdrew his objection and the Court allowed the answer. Condon vehemently, and in a manner which bespoke truthfulness, declared, "I have never taken a book from the New York Public Library, neither have I signed my name for any book, and I never took a book on theosophy or signs of any kind there, sir."

Then Reilly asked if he had ever heard that a "John Condon" two weeks prior to the kidnaping signed for Koch's *Book on Signs* in the New York Public Library. And in his most legal manner, as though a great victory had been won because the Attorney General refused to allow the witness' answer, he stated, "I now ask the Attorney General of this State to produce the slip from the library in New York signed by a Dr. John Condon which, I understand, is in his possession."

Wilentz replied, "I do not know as it is in my possession, I will get it; but it has absolutely nothing to do with this case, and when it is offered, I shall object to it." [27]

Defense counsel now, with a special air of importance, changed the subject and asked, "Now, Dr. Condon, will you take a pencil or ink and a pad and write, please?"

As defense counsel asked the question, the witness stood up with

[27] The library slip was signed by John Condax, Philadelphia art student and lecturer on art in Barnes Foundation in Merion, Pennsylvania. On January 10th, Mr. Condax conferred with the New Jersey authorities and admitted using the New York Public Library.

the idea of leaning on Justice Trenchard's bench in order to write. The Attorney General motioned for him to sit down and wait. Condon, eager to follow through with Reilly's suggestion, unwittingly annoyed Wilentz, who reprimanded him mildly, "Just a minute, Doctor. You will wait until you are asked a question, please."

The witness complied, and when Reilly asked him to write "John Condon" he inquired, "As my name?"

Reilly emphatically replied, "Just those words, 'John Condon.'" The witness objected, "No, it is not my name." Reilly then sarcastically asked, "What is your name?"

The witness replied, "John Francis Condon, or John F. Condon."

Reilly asked him to write "John."

The witness seemed uncomfortable in the position in which he attempted to write, and in response to a question from Wilentz, he said he would like to stand. When he finished writing "John," he was requested to write "Francis" under it and under that "Condon." He was then asked to write his signature.

When he finished, he said: "That is my bank signature."

Reilly, eager to show his advantage in the combat of wits, replied: "Perfectly safe with me, Doctor."

Condon, regarding him most carefully, replied: "I hope so." The sheet of paper was then admitted for identification.

In answer to questions about his past experience, the witness corroborated his previous testimony. Reilly suggested that since his retirement in 1932 he had been a gentleman of leisure. This characterization Condon proudly denied, saying that he had never had a day's leisure in his life. Reilly quickly interrogated him about his extensive travels around the country. Condon insisted that was not leisure.

When Reilly asserted that he had just come back from a trip, Condon inquired: "Trip? Came back from a little mission, yes." He denied that his "mission" had ended in Trenton two days ago. He said he had arrived in Trenton on the way back from Brockton, Massachusetts, and Rockland where he had lectured.

Condon worded his answer carefully and when Reilly asked whether he had lectured at Brockton, he replied: "No, sir; Rockland. I mentioned Rockland last, and in English we take the last noun which brings on that relationship, sir."

Defense counsel, resentful of the witness' school-room attitude, asked that, "irrespective of the lecture on English," he give the name of the city he had been in last, before Trenton. Condon replied that he had stopped in every city between Brockton and Flemington, as he had been traveling by automobile.

He remembered having been in Taunton, Massachusetts, and having stopped at a drug store and conversed with the druggist. He emphatically denied having told the druggist he had not yet discovered "John."

Reilly continued, "And didn't you say to the druggist at that time, 'They haven't caught John yet; I'd give ten thousand dollars to find him'?" Reilly inferred his acceptance of the idea.

The witness asked, "Finished?"

Reilly indicated he was. Laughter greeted Condon's dismissal of the idea as ridiculous. He denied he was given to extravagant remarks, proudly stating he was cautious. The Attorney General objected, then immediately withdrew. All this took place quickly. The witness appeared confused and Wilentz attempted to calm him.

The doctor, realizing that he might be giving Wilentz some concern about his poise, stated: "I have the situation, if you don't mind; don't worry."

Defense counsel eager to disturb the witness' serenity, asked, "You are enjoying your day in the sun, Doctor, aren't you?"

As the Attorney General started to say, "Just a minute . . . ," Condon interrupted: "I don't know what he means. He will have to speak English if he speaks to me. What is it? What does it mean?"

Reilly slowly repeated the question: "You are enjoying your day here before these people, your first day in court that you ever testified; you are enjoying it, aren't you?"

Condon quickly sobering his audience, replied, "No, sir, I feel sad over it."

Reilly, aggravating the situation, asked, "Why, haven't you been preparing for weeks for this day in court by giving out statements to the Press about what you were going to do"—the witness tried to interrupt, but Reilly finished—"to the cross-examiner?"

Reilly lost out by Condon's response: "I will tell you, because I found insidious snares in every single place that I went, in order to trap me and make fun of me and ridicule me, and they haven't succeeded." The forceful sincerity with which these words were uttered did much to create a favorable impression.

Defense counsel sneeringly asked: "Did the druggist up in Taunton ridicule you?"

The witness replied in the negative.

The tension in the courtroom became more marked as Condon recalled the name of the druggist, Mr. Donegan.[28]

The Attorney General interrupted: "Just a minute. I have a letter from that gentleman which I would like to exhibit to Mr. Reilly. Maybe it will help him in his examination." The witness, jealous of his position, asked to see it first. His request was ignored.

Reilly heatedly replied, "I don't want any assistance, Mr. Attorney General."

Wilentz calmly answered, "Yes. Well, I have the letter here."

Reilly hurled back, "I don't want to act as a nursemaid toward this witness."

Condon again tried to break into the discussion, but Wilentz asked him to refrain.

The Attorney General unemotionally addressed the Court: "If your Honor please, I present to the Court an unsolicited letter from Mr. Donegan."

Reilly, more affected at this time of the trial than at any other, stated: "Now I object to this. I object to it. If it keeps on, I will make a motion for the withdrawal of a juror."

Wilentz replied, "I will withdraw the offer."

Fisher excited, addressed Reilly: "Do it anyway. Make the motion anyway."

Reilly formally stated: "I move now for the withdrawal of a juror for this production of this paper and the statement of the Attorney General, and the declaration, and that we may have a mistrial. I will ask Mr. Pope to argue the question of law."

[28] Some newspapers in New York City carried glaring headlines on the story that Mr. Donegan made an affidavit that Dr. Condon told him "John" was not Hauptmann. This story was first treated as authentic, but subsequently denied. This is an apt example of the misinformation which was given to the public under the guise of truth.

Pope, with a smug smile, pompously addressed the Court: "I don't think it needs any argument, your Honor. I think the question of the announcement of the Attorney General was so manifestly out of order, unfair and prejudicial to the rights of this defendant that it requires no argument." Pope continued to smile and remained standing as though he were to continue.

The Court, after waiting a few seconds, asked: "Have you finished?" Pope replied that he had, and Justice Trenchard said, "I will deny the motion for a mistrial or the withdrawal of a juror"; and returning to the jury, added, "and in connection with that, I wish to caution the jury most emphatically to disregard everything that has been said in their hearing respecting what was said to be a letter from this—what is the name?" Reilly and Fisher simultaneously uttered the name "Mr. Donegan."

Everyone relaxed and Condon denied again that he had ever told the druggist that Hauptmann was not "John" and that he would give $10,000 to find "John." He agreed that he had visited a certain restaurant in New York two weeks before the present time but denied having told a waiter that Hauptmann was not "John." Condon had talked to the waiter because, he explained, "I always talk, yes."

Defense counsel asked why he had taken the trip which wound up in Trenton. The witness, instead of answering, assumed a legal attitude and stated that he objected to "wound up in Trenton." He corrected, "Wound up at my home."

Reilly, imitating his manner, said, "Well, then, we will go back and take your objection, the trip that wound up at your home in the Bronx."

Condon agreed in judicial fashion. He stated that he and his family frequented Beckett, Massachusetts, the importance of which was not discussed.

Defense counsel wanted to know whether he had told newspaper men in Miami, Florida, that Hauptmann was not "John." Discussing his identification of the defendant with marked awareness of the situation, Condon dramatically explained: "Oh. I never did. I never told or mentioned his name to them or in public, never —note the words, Colonel—of affirmation or denial. I make a distinction between 'identification' and 'declaration of identification.'"

Reilly accepted the reply as adequate and said, "In other words, I am to understand that you split hairs in words?"

Condon, with dead seriousness replied, "No hairs at all. A man's life is at stake and I want to be honest about it."

Reilly indicated that if Condon were honest, there would be no reason why he should not blazon forth, whenever he was asked, that Hauptmann and "John" were one and the same. Condon stated that such a procedure would interfere with the legal presentation of the case.

Reilly suddenly hurled, "In the Greenwich Street, New York police station, you said it was not the man, did you not?"

Condon denied it and challenged defense counsel to present witnesses to prove his point. Condon asserted: "I never said it was or was not."

Reilly attacked: "Because you know you are not sure?"

The witness, who had been waiting to clarify his point about identification, used this opportunity: "Because I made the distinction between declaration and identification. The identification meant what I know mentally, the declaration meant what I said to others"; and continuing his oration with a ringing note of sincerity, he added, "There isn't a man who breathes has ever heard me say that that was the man but one."

Reilly followed through, however, and commented upon his not having identified Hauptmann in Flemington.

To this the witness replied: "No, sir. Beg pardon, there is the word 'identification' again"; and in a voice which reprimanded the defense counsel and placed him in the rôle of a school boy, he added: "I take exception to your language. It would make a mistake and when you begin to divide the identification and declaration and denial, you would make it appear as though I were dishonest and I am not. I won't . . ." Then, fully aware he was censuring the defense counsel and forgetful for the moment of his own position, Condon turned to the Court and inquired, "Is that too severe, Judge?"

The Court, taken completely aback, answered, "No."

Reilly proved himself equal to the situation as he said, with a friendly smile, "Come on, I can take it."

Pleased with his verbal spanking of Reilly and attempting to clear up the discussion, Condon reiterated his differentiation between identification and declaration of identification. He indicated an apology by the tone of his voice.

Reilly, aggressively, though friendly in the beginning, said, "Now you are talking down here to a lot of plain people." Then in a scolding tone, Reilly now the school teacher and Condon the pupil, he added, "Do you understand that?"

Condon mildly answered, "I do, perfectly."

Still scolding, Reilly added, "Yes, plain people, and identification means only one thing, the picking out of a person." Quickly defense counsel inquired, "Did you ever announce the identification of this defendant?"

Condon testified that he had done so, but not in any court of law before this day.

Reilly's aggressiveness increased as he inquired, "And nobody had any muzzle on you, did they?"

The witness replied, "Nobody. But if you will allow me—"

He never finished because defense counsel commanded, "Please answer my question."

Defense counsel then asked the witness how many times in the past two years he had been asked about "John." The witness was not able to recall exactly, but admitted to thousands. Condon had not been called as a witness in the extradition proceedings in New York, and Reilly indicated the reason to have been that he had not been sure Hauptmann was the man.[29]

The witness replied that prior to his interest in the case he had never seen the Lindbergh note or the symbols known as the signature on the ransom notes. Reilly censured him for having selected the *Bronx Home News* for his advertisement, and Condon was not able satisfactorily to convey why he had used a small neighborhood newspaper instead of a nationwide news agency.

Reilly violently asked, "Was that because of your former contact with exconvicts and people of the underworld?"

The witness replied, "Had nothing to do with it, and I had no associations with exconvicts. Those stories in the paper were lies."

Condon's response as to why he had used a neighborhood paper

[29] He was not called then, because the State of New Jersey did not wish to reveal its full case against Hauptmann.

in New York seemed somewhat obscure: "Because those papers all led toward one miserable fellow that I thought was innocent. His name was Arthur Johnson."[30] He stated that "Mr." Johnson had lived at City Island but he had never known him.

Then Reilly asked, "Then why should you, a Doctor of Philosophy, an A. B., a professor of Fordham, suddenly decide that you would protect Red Johnson, a sailor on a yacht, unless you knew him?"

The witness replied, "I'll tell you why: because I always hated to see an underdog, and always gave him a chance throughout my life, and I had heard that Arthur Johnson had nothing to do with it, from many people. I was at that time going in among them and questioning them concerning the probabilities of the case."

Reilly followed through with, why, not knowing the man, he should have taken such an interest in him. When he once referred to Johnson as an "inconspicuous Danish deck hand," Condon, whose answers during this battle were not always relevant, replied: "If you will allow me, I will take away the nationality. I never say anything against a nationality."

Reilly, however, aware of his right, sarcastically replied, "Well, I will put the nationality in . . ."

The question of English syntax made the next few minutes in the courtroom exceedingly tense. Reilly suddenly asked, "Did you learn that he phoned Betty Gow at half-past eight the night of the kidnaping?"

Condon replied, "I knew that the night of the kidnaping."[31]

Reilly, greatly excited, inquired, "How did you know it if you were not in contact with him?"

The witness replied: "I will tell you how I know it. I knew it because it was spread around all through that—"

Defense counsel interrupted, "The night of the kidnaping?"

Condon replied, "Now your English again—" but Reilly would not allow him to finish and insisted that he answer. Condon, stalling for time, replied, "Ask your question."

[30] Henry ("Red") Johnson.

[31] I have always wondered what the effect would have been if, after this reply, Reilly had terminated this phase of the examination and, if it had been overlooked by the State, in summation had attempted to impress the jurors with Condon's "guilty knowledge" of the crime by referring to this answer.

Reilly repeated, "You said you knew that the night of the kidnaping."

Condon now answered, "That occurred the night of the kidnaping."

But Reilly, not to be shaken, replied, "No, you said you knew it the night of the kidnaping."

Condon surprised, queried, "Did I say that?" and defense counsel answered, "Yes, you did."

It was here, by failing to follow through to the logical conclusion, that Reilly lost his opportunity to completely confuse Condon. When, in answer to a question, Condon used "Red Johnson," and corrected himself to "Mr. Arthur Johnson," Reilly committed a serious error by suddenly inquiring, "Are you in the habit of calling deck hands 'Mr. Arthur Johnson' with a bow?"

Condon, no matter how confused previously, completely reëstablished his prestige with the jurors by his answer: "I am. This was my father's teaching. I never heard of a man twenty-one years of age that shouldn't be called 'Mr.' in the United States. We have no lords or dukes or earls here."

Reilly, in order to extricate himself from this embarrassing situation, asked, "What about Whateley?"

Condon, whose self-assurance was now fully returned, answered, "I don't know what you mean."

Reilly, with doubtful surprise, snapped back, "You never heard of Whateley, the butler?"

The witness, parrying the question, answered, "You mean where?"

Defense counsel, thinking that "where" referred to the home in which Whateley had worked as a butler, replied, "In the Lindbergh home." The witness again tried to assume the superior rôle and mildly called the counsel's attention to the necessity of being specific in his questions. After a few inquiries as to when Condon first heard Whateley's name, it was placed at March 8th, 1932.

When Reilly next asked the educator a question and referred to him as Dr. "Jafsie," the witness, with a pleased smile and somewhat bashful, interrupted, "No, no . . ." Before he could finish, Reilly quickly replied, "I will leave that out . . ." He asked, ". . . Why do they call you 'Jafsie'?" The witness replied that his

initials were J. F. C. and if pronounced quickly the word formed would be "Jafsie."

Defense counsel brought out that the kidnaper was known as "John" and that this was also Condon's first name. He now realized that he had digressed sufficiently since Condon's oration on democratic principles, and went back to the subject of the deck hand.

Condon would not allow him to say "Red Johnson," but made him say "Arthur Johnson." The witness explained that the clearing of Johnson's name had not been his chief reason for having entered into the case.

After a few questions about the witness' letter to the *Bronx Home News* in which he volunteered to act as a go-between, Reilly suddenly asked, "And didn't you do that because you knew at that time that the kidnaping band were waiting for your letter in that paper?" Despite Condon's emphatic denial, Reilly followed through as proof of his point that Condon had received a letter within twenty-four hours, mailed from Williamsburg, Brooklyn.

Defense counsel tried to get the witness to state that he had heard of Johnson's name as early as March 2nd. Condon denied it.

Reilly suddenly stated: "I take it that you appreciated that everybody in the house with the exclusion of Colonel and Mrs. Lindbergh were under suspicion."

The witness denied this and further stated he never had had the slightest suspicion of anyone in that home.

Reilly most sarcastically inquired, "Of course you never had read in all of your vast experience of English butlers not being honest, had you?"

Condon by this time had mastered the technique of handling such questions and triumphantly answered, "I have never heard that honesty applied to any nationality."

Reilly, now controlled, calmly asked the witness to answer. Condon replied that he had done so. Reilly slowly and deliberately began to repeat his question, but before he finished, the witness interrupted and said, "I did not."

Succeeding questions pertained to Condon's knowledge of New Rochelle and his lectures there in the spring of 1932. He was asked about a woman there; these vague inquiries were unsatisfactorily

answered. The witness did not recognize a photograph of a woman shown him and vehemently denied ever having met her. Defense counsel again took up Condon's interest in the kidnaping and in Johnson. The witness was given the opportunity to clarify the situation. He had desired to help not only Johnson but two others. Reilly expressed curiosity about the witness' interest in people accused either "falsely or unfalsely" up to March 7th, 1932. Condon, because of a poorly worded reply, indicated he wanted to help Colonel Lindbergh. When he admitted that the Colonel had never been under suspicion, Reilly was avenged for Condon's pointed lectures on English.

Reilly, forming his question carefully, asked, "Was there any other person except Johnson that you desired to aid by your letter, which person had either been accused justly or unjustly before March the 7th?"

The witness, happy to close this subject, replied, "No, sir."

Reilly, aware of Condon's delight, stated, "Now, we understand each other on that."

Condon was unable to give the date when his first letter appeared in the *Bronx Home News*. An assistant editor of the *Bronx Home News*, Mr. Gregory Coleman, to whom defense counsel referred as the publisher, was in the courtroom. There was an agreement between counsel to accept his statement as to the date, and the Court allowed the irregular procedure. Mr. Coleman stated that the letter had been dated March 7th, 1932, and published on March 8th, 1932.

In a mild voice and with an implication which seemed to bewilder the witness, Reilly inquired, somewhat later, "Do you remember receiving two letters in the same kind of handwriting as the letters in evidence with the same kind of symbols on them which you did not turn over to the authorities?" Condon emphatically replied that every letter received by him had been turned over to either Colonel Schwartzkopf, Captain Oliver or Inspector Bruckman.

Reilly referred to Condon's letter as an "appeal," but Condon corrected this to "offer." He explained that in his offer he gave his home address so the kidnaper would be able to communicate directly with him. The first reply, received on March 10th, consisted

of an envelope containing two letters; one, addressed to him, referred to his willingness to act as a go-between, and there was a sealed letter for Colonel Lindbergh. The symbols did not appear on the letters to Condon.

Reilly was confusing the witness in referring to these two letters and was not eager for him to see them. With Wilentz' aid, Reilly tried to read the contents of the letters to the witness. Condon evidently did not know which letter was being read and asked that it be shown to him. Reilly charmingly agreed to do so in a little while. The witness insisted: "There are two letters involved and it is very important." The Court ruled that the letters be exhibited to him.

Defense counsel brought out that Condon had not been aware of the signature on the nursery note. He asked: "And when the Colonel came to the phone didn't you tell the Colonel, 'I have a letter with the same symbols on it as the note left in the nursery,' and didn't the Colonel say, 'If you have, come out'?" Condon emphatically denied that conversation, and repeated his original one:

> Colonel, I do not know whether this is important or not, but there are what I might call a secantal circle, that is, one circle cutting in the other, the same as a secant cuts through a circle. Is it important? Shall I bring it down to you?
>
> And he said to me, "I will get an automobile and come to you. Where are you?"
>
> I am in the Bronx but you don't have to. You have enough to do and I will come down to you, to Hopewell.

The next series of questions allowed Condon to earnestly declare that he had never seen the nursery ransom note until a few months before. He was asked a number of questions which seemed to place him in the rôle of an expert in comparing the symbols in one letter with those in another. Reilly inquired about the use of the plural pronouns in the notes as he was naturally eager to stress the concept of plurality.

Wilentz objected on the ground that defense counsel was asking the witness for impressions, convictions and conclusions. Reilly,

using this opportunity, orated that it was proper cross-examination, and he very cleverly stated that although his client was being tried as the sole and individual prime mover and only mover in this crime, letters were now being introduced and evidence had been given by Condon to the effect that many persons had been involved in the crime. To prove this point, he quoted phrases from Condon's direct testimony.

The Attorney General, not to be outdone, effectively referred to the legal points involved. He stressed that the State charged Hauptmann with the murder of the child, and that as far as the present trial was concerned, it was not material whether or not he had assistants.

Reilly declared to the Court that Condon, on direct examination, had been permitted to testify freely "as to everything that was in his mind . . . so that we could be in a better position to cross-examine him." He then said, "We believe in cross-examination"; and stopping a few seconds he significantly added, "And we feel quite sure it will not be limited by your Honor."

Confusion continued in the discussion of the first two letters which Condon had received from the kidnaper. At one time he insisted that the letter read to Colonel Lindbergh when he first telephoned him from Rosenhain's restaurant had the symbols; and then stated that he had not seen the symbol, because the Colonel's letter had been sealed. He could not, therefore, have telephoned the description of the symbol. Defense counsel specifically asked whether he described the symbol to Colonel Lindbergh when he first telephoned him. The answer was in the affirmative.

Condon was unable to place the date of the next communication from the kidnaper, but when shown a letter, he identified it as one he had received by messenger on March 12th. After its receipt he had a talk with Colonel Breckinridge and invited him to stay at his home.

Later, the witness was examined about the fulfillment of the instructions in the first letter which had directed him to the frankfurter stand. He was given the letter and read parts of it. Asked about the size of the stone, he replied that he had not measured it.

Asked whether or not it was a paving stone, he answered: "No. If you know what the Irish call a paver, that is what it is. The

Irish have the word paver in two sections; one is the nails in an Irishman's boots on which he slides, and the other is the same as we have on our pavement or—"

Reilly interrupted, "That is, the rock he throws when he goes to a party?"

The witness agreed, "Right, right, on a pleasant party; right."

On January 10th, the defense counsel continued with the discussion of the note found under a rock. Condon was argumentative but Reilly ignored him and exhibited the note. Assuming a careful and unduly suspicious attitude, Condon requested permission to examine the note and envelope. Reilly again asked him to describe the trip from his home to the frankfurter stand. Condon began to orate, digress and give conversation. Defense counsel's facial expression warned him that conversation not in the presence of the defendant was inadmissible.

Like a child caught in a naughty act, the witness apologized, "Oh, excuse me; right . . . Pardon me for that," and added facetiously, "I will try not to bother you today."

A series of questions and photographs placed the exact location of the frankfurter stand in relation to the subway station and Van Cortlandt Park. Condon, aware that defense counsel wanted him to be specific, had his first opportunity in the day's session to mildly reprimand him. Reilly used "right" and "left" in naming locations. The witness asked that he please "stick to the points of the compass" because "right" and "left" could not be used in placing objects on a photograph. Reilly continued to disregard his request, but allowed the witness to pivot him in front of the jury in order to locate the various points under debate. At one time, as he asked Reilly to turn, Condon seemed to think he was driving a horse. Reilly was pivoting very slowly to the right and Condon shouted, "More, more." Finally satisfied with the position he shouted, "There"; and like a driver throwing his reins over the horse at the end of the journey, he yelled, "Whoa."

The witness then told how he had proceeded to Woodlawn Cemetery and repeated his testimony. "John's" method of climbing over the gate was gone into in detail. Condon called it "turner fashion" and indicated that it had not been graceful. He used the word "palooka" to convey his meaning. Reilly, surprised at his

use of the word, shouted, "What?" Condon, thinking perhaps the word possessed a double meaning, stated that he did not know its meaning but thought "palooka" could be used to signify awkwardness.

Once again Reilly and objects in the courtroom were utilized to enact the scene at the cemetery that night. Reilly seemed surprised that the guard had not blown a whistle or attempted to follow, at the unusual sight of a man climbing over a cemetery fence at night. The witness did not think it unusual. Reilly, surprised, asked if he had ever climbed out of a cemetery at night. Condon, assuming a frightened expression answered, "I never went in one at night." Laughter followed, and the Court reprimanded the spectators.

The witness, attempting to be very accurate, said that the man had run with "the step of a distance runner." He then asked Reilly whether he could distinguish the sprinter from the distance runner. Defense counsel replied he could, but did not know if the jury could.

Defense counsel made Condon turn up his coat collar to better describe "John." Condon said "John" had worn a fedora hat, and he asked defense counsel for a couple of specimens. When he was given a hat for purposes of illustration, he twice repeated he would not put it on his head. "John's" hat was finally described as soft and rolled up.

Reilly asked, "With a bevel edge . . . ?" and inquired if he knew what a "bevel edge" was.

Condon disgustedly retorted, "What do you mean, bevel edge on a hat?"

He appeared confused when suddenly asked whether he had ever said that the man he talked to on the bench was Scandinavian. He began to speak, but before he could complete his thought, Reilly interrupted and insisted that he answer "yes" or "no." Such a demand seemed too much for the man who all his life had been a school teacher. He asked defense counsel to change the question, and began to repeat it. There was mental blocking and he was unable to finish the sentence. Assuming the attitude of now being ready for anything, Condon requested, ". . . Will you please call it again?" Defense counsel slowly and deliberately repeated his

question and the witness, now controlled, slowly and decisively replied that he had indicated many times that "John" had *said* he was Scandinavian. Condon denied ever having said that "John" had a scar on his face. Requested to give the distance of the automobile in which Reich was sitting from the shack in the park, the witness did so with extreme accuracy.

When he returned home, Colonel Breckinridge was awaiting him. The witness did nothing further about the case the next day, Sunday, and went to church. Reilly requested that he stick to the case. Condon, very eager to discuss the importance of Sunday in his life, checked himself by questioning himself out loud, "Did I do anything about the case?" He answered himself, "I can answer that truthfully; yes, sir, I did," but he did not elaborate.

Condon received the envelope exhibited to him, which had contained the sleeping suit of the kidnaped child, on March 16th or 17th. He received the package of the sleeping suit and two notes by mail. Asked what he did with the notes, Condon begged for permission to make a preliminary statement, which Reilly refused, demanding facts. The witness stated he had read them; one had been addressed to him and the other to Colonel Lindbergh.

The Court, eager to place the date, started to ask, "Doctor—"

The witness turned to him and said, "Yes, sir, Judge." Condon placed the date as within a day or two of March 17th and again added that that particular day had been a great one in his life. The Court then asked specific questions about the envelope. Condon explained he had put the sleeping suit on his piano and sent for Colonel Lindbergh to identify it.

Reilly had Condon read parts of the letter addressed to him and suddenly inquired, "Did you ever buy any of these suits, Doctor?"

Condon answered, "Never. Didn't need them."

Reilly, trying to get a contradiction, said that there must have been need in his past life because of his children. The witness avoided the trap by saying that was a woman's work.

Condon did not put an identification mark on the sleeping suit when he received it. Reilly, therefore, tried to insinuate that if the garment had not been marked, and the witness had not seen it for approximately three years, it might not have been the same

garment. Condon pointed out that Colonel Lindbergh had examined it carefully and taken it and the letters.

Reilly then directed his attention to the letter he had received, postmarked March 19th. There was little discussion about this letter, and he next referred to one received on April 1st. Following the kidnaper's suggestion, Colonel Breckinridge had inserted the advertisement, "Yes, everything O.K.," to acknowledge agreement to the transaction planned for the following day, April 2nd. Defense counsel insisted that, so far as the witness had known, Colonel Lindbergh and he had been the only ones aware of this negotiation.

A wood carver on Webster Avenue near Two Hundredth Street made the box in which the ransom money was placed. Condon, unable to name him, pleaded that he would know the name if Reilly would recall it to him.

He pointed his finger at Reilly, who, in an angry voice, refused to assent, and yelled, "Don't be pointing at me! You had this box made?"

The witness, regarding Reilly, answered: "Don't shout. I can hear you. I am not deaf. I can hear every syllable that you utter if you use your lips. All right."

Reilly referred again to the construction of the box, and sneeringly asked, "Who were the orders from, the Chief?" Condon explained that they had come from Colonel Lindbergh and Colonel Breckinridge as a result of a conference. The witness could not remember when the box was made and asked for the letter containing that suggestion. Reilly refused and requested that the date be given from memory.

Condon angrily retorted, "Well, then, I don't remember." Reilly sarcastically indicated it was strange he should have remembered everything in the case except details about the box.

Reilly continued to stress the importance of this, but Condon disagreed—except that the construction of the box had been such that if found, it could be readily identified. Reilly persistently asked for the name of the man who made the box, and Condon, still unable to recall it, finally said that the man's name was on record; he had given it to the Department of Justice. Looking around the courtroom he implored, ". . . If there is a man in the

audience belonging to the Department of Justice . . ." Reilly strenuously objected to his procedure.

Defense counsel then discussed the night of the ransom payment, especially the way in which Condon had held the box. The witness resented counsel's refusal to allow him to tell of the preliminary steps, but Reilly explained that he was jumping all those details and significantly added, "and lectures."

The witness was then asked if he ever went back to the cemetery for the box. He went on several occasions, he said, but Reilly pinned him down to the first. On the Monday following the Saturday of the negotiations, Condon returned to the cemetery. He started to say he had heard someone say— Reilly objected but Condon continued ". . . that a grave was disarranged." After a mild reprimand from the Court, Condon graciously acknowledged his legal error.

Condon stated that on April 3rd he spent most of the day with Colonel Lindbergh in search of the child, flying from Bridgeport to some place off the coast of Maine, and returning to Long Island at approximately six o'clock that evening.

Condon was caught napping in regard to language. Both witness and defense counsel then angrily engaged in a discussion of acceptable English usage. Reilly controlled himself as the witness stated that he had difficulty in understanding him because of the way in which he expressed himself.

Reilly heatedly remarked, "You don't want me to talk baby talk, do you?"

The witness answered, "I want you to talk in English; speak English."

Condon confirmed his previous testimony of the search for the child. Although he received letters about the crime and answers to some of the advertisements after the money had been paid, not one of these contained the symbols.

He denied ever having had a "boathouse conference" at City Island or any other conferences at his shack there, or having told any of his neighbors there on April 10th, 1932, that he believed a gang of four or five men had been involved in the kidnaping.

He was asked whether he had ever told his friends and neighbors that he was the "Jafsie" mentioned in the advertisement, and a

discussion arose in which defense counsel, Court and the Attorney General had a great deal to say about nothing. Condon began to name his neighbors and then stopped as he could not go on without tabulating them. He insisted that prior to the publication of his interest in the case, he had never discussed his rôle in it. After its publication he had done so at every opportunity. Reilly asked whether he would talk to anybody and he proudly responded, "Anybody that would talk to me, yes, sir."

Condon had not at any time made stenographic reports of his numerous conversations; his statements to police authorities had been recorded. Reilly, to impress the jury, declared that although the witness had not made any notes and admitted slight memory defects, he was able to recall, in 1935, events of 1932. Reilly inquired about Condon's various efforts to find "John," and his numerous conversations after the ransom money was paid. He indicated that the witness, in a New York restaurant in December, 1934, had talked with Marcus Griffith of the *New York Inquirer*. Condon said he had had a chat with a man but could neither recall his name nor the conversation unless it were repeated. Reilly complied and indicated that Condon had said he knew the child's body had been brought back to the place where it was found.

The witness replied, "I don't remember having said so."

Reilly mildly inquired if his memory were poor and added, "You won't say you didn't say it."

Condon answered, "I won't say I didn't . . ." Reilly let it go at that.

Condon could not recollect, after having seen Hauptmann at police headquarters, having asked for photographs of the defendant to study them. He denied having requested Detective Callahan of the Bronx for some pictures for that purpose.[82]

Reilly asked for the exact date when the witness, according to an earlier statement, had seen Hauptmann from a Bronx bus. Condon, unable to give it exactly, placed it in the latter half of August, 1934, and explained that he had been in a bus going from New Rochelle to New York. Condon stated that he had made an

[82] This implication of Condon's doubt when he first saw Hauptmann was of extreme importance to the defense's case. It was negated by the failure of the defense to call Detective Callahan as a witness.

outcry, but he could not give the name of any person who heard him. When Reilly said he should have asked the driver to run the man down, Condon answered that it would have been impossible, because the traffic had been such that fifty people could have been killed; the man disappeared in the woods north of Pelham Parkway.

After several excursions into irrelevant and confusing matters, defense counsel asked about Condon's career as a principal in a New York City public school. The witness had said at one time that in 1902, at his own request, he had been transferred from one school to another. Reilly inferred this was because of his conduct.

The Attorney General declared, ". . . I take it a courtroom cannot permit the assassination of a witness by an inference . . ."

After a few other questions, Reilly again asked whether it were not true that the witness had been transferred in 1902 because of "conduct unbecoming a gentleman"; and though interrupted by Wilentz' objection, added, "arising out of your conduct with a woman teacher." The Court declared the question had already been answered, and Condon, reinforcing the Court, repeated his denial.

It had been rumored that this phase of Condon's life could not withstand the test of a severe cross-examination. It had been proclaimed far and wide that Reilly's examination would be very devastating to the witness' character. No such evidence, however, was forthcoming and Reilly's examination terminated with this single inference.

Although the witness had denied it, Wilentz impressively protested this type of cross-examination: "If your Honor please, while the answer is in the record and it is in our favor, I still want to protest to your Honor against this form of question as to other witnesses, too, and when they come I expect to object again, because I think they are unfair to the limit."

Reilly heatedly began to retort, "Now, when I ask a question—"

He was interrupted by the Court, who stated, "There is nothing before me; the question has been asked, it has been answered, and it is in the record." Reilly moved that the Attorney General's remarks be stricken from the record and took exception when the Court refused.

The Court, after a recess, mildly asked Reilly if he were finished, and receiving an affirmative reply, informed Wilentz. Under redirect examination, Wilentz discussed Condon's interest in athletics in college and asked if he were the holder of a Congressional Medal. Pope objected and the Attorney General agreed to withdraw the question.

Condon had negated his value as a witness for the State by his ambiguous explanation of the first telephone conversation with Colonel Lindbergh and by his knowledge of the symbols on one of the two letters received in response to his communication published in the *Bronx Home News*. Wilentz, much worried, eagerly awaited his opportunity to clarify this situation, and immediately directed his questions toward the night of the witness' first conversation with the Colonel. Reilly, aware of his purpose, and also of the favorable impression the witness had created for the defense on these points, fought every inch of the way to prevent the defense's gain from being turned to a loss.

He first objected that Condon did not know that the voice at the other end of the wire was Colonel Lindbergh's. There was a heated argument, statements remained incomplete, interrupted by counsels' discussion of the legality of that particular question. The Court finally ruled that the witness could answer if he now knew whether the voice he heard that night was Colonel Lindbergh's. Condon replied that the first voice was not, but the second was.

Asked what he had done while at the telephone, as part of his answer the witness stated, "A voice directed me." Reilly objected. Wilentz, becoming very technical, instructed defense counsel that he had not power to object, all he could do was to move to have it stricken from the record. The argument continued, both lawyers equal to the situation. The Court solved the problem by striking out the phrase, "A voice directed me."

During the discussion, illegal statements were made and were heard by the jury. Wilentz graciously addressing the Court indicated that he would regulate his questions so that "what Mr. Reilly objects to won't get into the record."

The witness now told that while at the telephone he opened the letter addressed to Colonel Lindbergh and read it to someone at the other end of the wire, at Hopewell. Wilentz, anxious to have it recorded that Condon did not open the letter until directed to do so by Colonel Lindbergh, asked whether he had opened the letter at the request of the individual with whom he was talking. Reilly objected that this was another ingenious way of putting the question. The Attorney General withdrew it, but defense counsel would not let it pass without censuring the Attorney General. He vehemently claimed it was not redirect examination. Wilentz, still anxious to prove his point to the jury, finally became involved in one question including so much that it was too complicated for Condon, and he called attention to it. Wilentz agreed.

The next questions revealed that the witness had gone to Hopewell at the request of a voice at the other end of the wire. Wilentz, repeating some of Condon's testimony, pointed to his statement that he took a sealed envelope to Colonel Lindbergh. Condon agreed that he had so testified, but now said it had been an error. Wilentz cleverly reinforced his admission and had Condon again say that it had been an error. Wilentz' frank recognition of his witness' error greatly minimized the contradiction of evidence and conveyed the impression of honesty.

Condon was next asked about, and explained, the circumstances under which he had opened the sleeping suit package. He was given the opportunity to assert emphatically that he had given the authorities the name of the man who made the box.

The Attorney General then called the witness' attention to his statement about having seen "John" while riding in a bus. He was able to get Condon to state clearly that this was in August, 1934. Condon had left his seat and told the bus driver to stop, but he could not because he had the right of way of traffic; shortly thereafter he stopped. Condon then got out and searched, but was unable to locate "John." He reported this incident to the Department of Justice.

This point cleared up, Wilentz asked a very long question, interrupted a couple of times by Condon, to bring out whether he had, at any time, been aware of how the Lindbergh child was

placed where it was found. Condon indicated that he had not known at any time and still did not know.

Wilentz now tried to straighten out the testimony relating to Condon's knowledge that Johnson had telephoned Betty Gow at eight-thirty the night of the crime. Condon started to interrupt. Wilentz, tense, realizing the importance of the correction, asked him to wait. The witness and Attorney General seemed not to understand each other and Wilentz, with justified annoyance, but respectfully, requested, "All you have to do, sir, is come along with me and we will be finished in a minute." Condon's answers were somewhat vague, and Wilentz attempted their clarification by leading questions.

Reilly, exasperated, instructed, "Don't lead him, Mr. Attorney General, please."

The witness cleared up his knowledge of Johnson's telephone call by explaining that it had come from general gossip and newspapers.

Condon said the first time he saw the symbol on the ransom note was when he opened the letter addressed to Colonel Lindbergh.

Under re-cross-examination, Condon denied ever having had difficulty in expressing himself in English in any of his lectures. Wilentz objected to the question, which Reilly claimed he could prove material. The Court allowed it. Defense counsel was surprised that a man with such vast knowledge of the English language should have made a specific statement on one day that he had taken a sealed note to Colonel Lindbergh and should now state it had been an error. Condon sincerely replied he had been mistaken. Defense counsel continued in surprise about the changed testimony in regard to the witness' knowledge of Johnson's telephone call to Betty Gow. Reilly subtly tried to convey to the jury that these mistakes had been called to the witness' attention by the prosecution. Condon insisted they had occurred to him without any outside aid.

When shown a photograph of a man,[33] which he was unable to identify, he proudly stated that he had taught forty thousand people and might have seen him; to the best of his knowledge he

[33] Isidor Fisch.

had not seen him in 1932. Asked whether he had seen him after he handed the money over the hedge in the cemetery, he indicated that he had not, or if he had, the man left no impression. Reilly then deliberately asked if he would now state that this person whose photograph he had seen had not called on him many times after the payment of the ransom money. Condon challengingly replied that he could only know that by having the conversation and events recalled. There was much discussion about this man and whether the witness had seen this photograph in the newspapers. When Reilly asked if he could recall the names of persons whose pictures he had seen in the newspapers, Wilentz objected. The Court, following this phase very carefully, mildly informed Reilly that this was not proper re-cross-examination.

Reilly, grinning broadly, facetiously replied that he knew it was not, and like a school boy caught in a naughty act, added that he was going along so nicely he did not think the Attorney General would object. The picture was marked for identification and Reilly indicated that he was through.

Wilentz thanked Condon, who smilingly asked, "Is that all?"

The Attorney General replied, "That is all, sir."

HENRY C. BRECKINRIDGE

Colonel Henry C. Breckinridge was examined by Wilentz, whose preliminary questions intended to convey to the jury that he was a reputable lawyer and had been Assistant Secretary of War from 1913 to 1916; had known Colonel Lindbergh for seven years and been his lawyer; and had advised the Colonel in regard to the kidnaping, both as a friend and a lawyer.

On the evening of the kidnaping he received a telephone call from Colonel Lindbergh between ten and eleven at his New York residence, and he and his wife proceeded immediately to Hopewell. Colonel Breckinridge was not at the Lindbergh home at the time of Condon's telephone call but had arrived by the time the educator got there.

Colonel Breckinridge then practically lived at Condon's home until May 12th, 1932. He confirmed previous testimony, that the sleeping garment and any notes contained in that package were

given to Colonel Lindbergh. The Attorney General led the witness to state that Condon's transactions after his initial independent appearance in the case were the result of the witness' instructions and suggestions and that the advertisements were inserted by Condon under his supervision.

The witness also confirmed testimony pertaining to the construction of the wooden box used for the ransom money. He testified that on April 2nd, 1932, Condon had received a note in his daughter's presence only, which was, however, opened before the group who had been waiting all afternoon. Approximately fifteen minutes after its receipt, Condon and Colonel Lindbergh left. Wilentz elicited that Condon had never urged the payment of the ransom money. The witness emphatically brought before the jury that Condon had not wanted the money paid except on a "c.o.d." basis. Condon's rôle was clearly illustrated when Colonel Breckinridge denied that the doctor had ever asked for or received "one cent" compensation for the time, trouble, effort and expense he underwent. The Attorney General referred to a letter already admitted in evidence, sent to Colonel Breckinridge by the kidnaper. The envelope was addressed to him and the back flap carried the return address of Colonel Lindbergh.

It contained a letter with instructions that the enclosure be given to Colonel Lindbergh. Wilentz, having thus cleared Condon of any monetary gain in the ransom negotiations, successfully cleared the name of Reich and also brought before the jury that Condon's use of Reich in the negotiations had had the consent of Colonel Breckinridge. The witness retold the story of the unsuccessful search for the "boat *Nelly*."

Under cross-examination by Reilly, Colonel Breckinridge testified that when he reached the Lindbergh home on the night of the crime, police officers were already there and the alarm had been sent out. Upon his arrival he saw the ransom note and observed the symbols. He was unable to say when the public had learned of the symbols.

Colonel Breckinridge had never met Condon prior to March, 1932. Defense counsel, with an attempt to insinuate that at one time Colonel Breckinridge had not had full confidence in Condon,

asked whether he had at any time written or caused to have written letters to Condon containing counterfeit symbols. The witness emphatically denied it and also denied knowledge of any decoy letters sent to Condon.

The Colonel did not know whether the person who had delivered the note on the night of April 2nd, 1932, was a man, woman, boy or girl. Reilly made the witness admit that conditions were such that night that it would have been easy for the individual to have been arrested.

There was a very short redirect examination by the Attorney General during which it was brought out that no plan had been devised to arrest the individual who delivered that note.

Reilly, under re-cross-examination, insinuatingly asked whether the witness had been interested in arresting the band who had taken the child.

The Colonel tersely replied, "Later, yes, sir."

Defense counsel with an oratorical flourish asked whether or not he, as a member of the Bar of the State of New York, would think it his duty to apprehend any person associated with the crime. When Colonel Breckinridge answered in the affirmative, there was an inquisitive reprimand as to why he had not done so that night. The Colonel, in a voice which balanced all insinuations, effectively replied that he had considered he was serving a superior duty, the recovery of the child alive.

Reilly, attempting to negate the effectiveness of this reply, indicated that the witness had had the man and the note. The Colonel answered, "Yes, sir, but we didn't have the child."

MYRA CONDON HACKER

Mrs. Myra Condon Hacker, Dr. Condon's daughter, under examination by Wilentz, confirmed previous testimony in regard to the circumstances in the Condon home at the time the sleeping suit arrived, and definitely stated that the package and the notes were completely turned over to Colonel Lindbergh when he arrived at the Condon home a few hours after the receipt of the package.

She insisted that she had been at the door of her father's home on the evening of April 2nd when the note came with directions for final negotiations. She was unable now to give the name of the man who brought it, but had once given a description of him to the authorities. She said he was approximately five feet six or seven inches tall, very slim, very dark, and she had never seen him since.

Under cross-examination by Reilly, her direct testimony remained unshaken.

WILLIAM F. HORN

Corporal William F. Horn of the New Jersey State Police was next examined by George K. Large of the prosecution. He identified specimens of Hauptmann's handwriting taken at the New York Police Headquarters on September 20th, 1934. He stated that Hauptmann had been requested, and had voluntarily agreed, to take the dictation. He emphasized that the purpose of the dictation had been to obtain samples of the defendant's handwriting and that it in no way contained anything in the nature of a confession.

C. Lloyd Fisher, of the defense, cross-examined, and Horn testified that Hauptmann was arrested on September 19th, 1932, at about nine o'clock in the morning and that the specimens of his handwriting had been obtained more than fifteen hours after his arrest. The witness refused to agree that Hauptmann, from the time of his arrest to the time of his dictation, had been continuously under a barrage of questions.

He explained that there were approximately fifteen other police officials present while Hauptmann was taking dictation. Fisher snappily asked whether Hauptmann had had benefit of counsel while he was writing. The witness answered in the negative. He did not observe any nervousness on Hauptmann's part nor any sign that he was affected by the examination. He, personally, did not know whether Hauptmann was given food during this interval. He stated that the prisoner was not abused in any way, and insisted that Hauptmann volunteered, and was exceptionally willing, to take the dictation. Fisher indicated that the writing was obtained under unnatural conditions, and indicated (employing a very clever

play on words) that Hauptmann's writing was not voluntary because he wrote only that which was dictated.

Large indicated to the Court that the writing was not a confession of guilt. Justice Trenchard, interested in the point, ruled the writing not a confession of guilt and admitted in evidence six specimens of handwriting obtained from Hauptmann. The defense objected, and Large declared that the witness would be recalled later.

THOMAS J. RITCHIE

Sergeant Thomas J. Ritchie of the New Jersey State Police was examined and confirmed the testimony given by Corporal Horn. He related that Hauptmann at one time had said "he would be glad to write so he could get out of this thing."

JAMES J. FINN

Lieutenant James J. Finn was next examined by Large. In Corporal Horn's testimony it had been stated that the handwriting specimens were obtained about fifteen hours after the arrest. Lieutenant Finn, however, said that it was approximately twenty-seven hours after.

Fisher then cross-examined and the lieutenant again testified that Hauptmann had not objected to the dictation and had not been under constant examination for the preceding twenty-seven hours. He had sat in a chair and been given an opportunity to sleep; there had not been a mattress in the chair. Fisher stressed the trying conditions to which the defendant had been subjected during the examination and emphasized the fact that he sat in the chair "as we sit in here in the courtroom . . . from nine o'clock in the morning until after twelve the next day." An exhibit of Hauptmann's handwriting was identified by Lieutenant Finn and admitted in evidence over defense objection.

THOMAS H. SISK

Thomas H. Sisk, special agent of the Department of Justice, was examined by Large, and stated he had not been present during Hauptmann's handwriting test. Large, therefore, withdrew him as a witness for the time being.

* * *

Wilentz now stated that he had specimens of Hauptmann's writing, about ten in number, an insurance card with the inscription "Richard Hauptmann, 1279 E. 222nd Street, New York City," a promissory note dated July 20th, 1933, and a number of applications for automobile licenses. The defense granted the handwriting to be genuine and the examples were all admitted in evidence.

FRANK J. WILSON

On January 11th, Frank J. Wilson, special agent in charge of the Intelligence Unit, Internal Revenue Bureau, was examined by the Attorney General. Wilson stated that he, Elmer L. Irey and Mr. Madden had been assigned to the Lindbergh kidnaping case. He insisted that he and his department at all times received full coöperation from Colonel Lindbergh, Colonel Breckinridge and the New Jersey police. He directed the preparation of the $70,000 ransom. Before his entry into the case, the money had been prepared in the office of the J. P. Morgan Company. After his intervention, he noticed that the serial numbers had not been recorded and directed two men to record them and to specially note gold certificates, United States and Federal Reserve Bank notes.

It was at his suggestion that as many gold certificates as were available were used. All the notations were carefully recorded and kept. When they were exhibited to him, he identified them and they were admitted in evidence.

April 4th, 1932, two days after the payment of the ransom money, he conferred with Colonel Lindbergh and, as a result, prepared a circular for tracing the ransom money. These descriptive circulars were sent to banks throughout this country and foreign countries. The serial number of one of the bills was incorrectly recorded, the

number sixty-one having been transposed. A package of $14,600, containing four hundred and ninety-three twenty-dollar United States gold certificates, was identified by him as the one he had sealed the previous December.

When this package was offered in evidence and objected to by the defense, Wilentz willingly withdrew the offer and it was marked for identification. There was hilarity in the courtroom when Wilentz, in giving the package to the clerk, stated that he wanted it witnessed he was returning the package. Reilly, entering into the spirit, with an assumed look of horror, said, "Don't put it over here," indicating the defense table.

Wilentz then exhibited a five-dollar bill with the ink inscription, "Loew's," and it was marked for identification. Wilson identified it as a ransom bill obtained from the office of the United States Treasury which he had had in his possession since December 21st, 1934. Wilson denied that any ransom money had been returned to the Federal Government since Hauptmann's arrest.

Fisher then cross-examined. He differentiated between Wilson's knowledge of any ransom bills which had turned up and the possibility that ransom money had been recovered without his knowledge. Thus, he succeeded in conveying to the jury that, only so far as the witness knew, had no ransom bills been recovered since the defendant's arrest.

Wilson had appeared as a witness in the trial against John Hughes Curtis, and Fisher was interested in his testimony at that time. However, Wilentz' constant objections, most of which were sustained by the Court, prevented a disclosure of what had transpired.

Fisher then asked where the first ransom bill had turned up. On April 7th or 8th, 1932, a report of a twenty-dollar ransom bill came from a Broadway bank in New York City, not far from Seventy-second Street near the Majestic Apartments; the next one, a five-dollar bill, appeared at a Schrafft's restaurant on lower Broadway. Wilson strongly denied that a twenty-dollar bill had been picked up in Bridgeport, Connecticut; while he was on the case, no bills had been returned from foreign countries. Asked if he had any knowledge that Max Schling, a New York florist, had deposited

approximately $3,000 of ransom bills in a bank, the witness stated that he had not and that he had never heard of such a deposit.[34] Wilson testified that $2,980 was deposited in a Federal Reserve Bank of New York the day the gold embargo became effective, but that the authorities could not identify the depositor; the deposit slip was signed "J. J. Faulkner." Wilson knew nothing about a J. J. Faulkner who had recently [35] committed suicide.

Fisher was elated with the witness' statement that the handwriting on the slip had been definitely established by experts as having belonged to someone else and definitely not to Hauptmann. He asked for the slip for identification by the witness. The Attorney General then informed the Court that they had "a ton of evidence" and that the defense would have to give the State advance notice of the documents it would need. Fisher then reverted to the sequence of the appearance of the ransom bills. Wilson was not positive, but thought that the third ransom bill, a five-dollar United States note, had been located in the Bickford restaurant on Forty-second Street. In discussing the amount of money returned to the United States Treasury since the $50,000 was paid to "John," Wilson was unable to be specific. He thought that approximately $19,000 had turned up and that $31,000 of the original ransom money had not been surrendered. The witness was coöperative and informed defense counsel just where he could obtain such information.

Wilentz then took the witness, who was leaving Flemington on official business, for redirect examination. Knowing the defense would want to recall him at a future date, the Attorney General mentioned that his mission was imperative as he was leaving under orders from the Federal Government. Wilentz elicited this information to circumvent any implication on the part of defense counsel

[34] Alvin Geissler, brother-in-law of Jane Faulkner, who in the course of the investigation of the Federal Reserve deposit slip of $2,980 was completely exonerated, had worked for Mr. Schling. Mr. Schling was in no way concerned in this matter.

[35] On the night of the day that Hauptmann's arrest was published, a man committed suicide by jumping from the tower of the Chrysler Building in New York City. A card in his pocket identified him as J. J. Faulkner. Thorough investigation eliminated him as the man whose name appeared on the Federal Reserve deposit slip.

that the State was preventing Wilson's further appearance. Wilson stated that, as far as he knew, all ransom bills had been passed in New York City except one or two passed just outside of it.

As a result of the gold embargo, several billion dollars were returned to the United States Treasury, and the witness maintained it had, therefore, been possible, even probable, that some of the ransom money was included, but it had not been practicable to check it. On the day the gold embargo went into effect, anyone could have gone to a bank and exchanged gold certificates without being questioned. Because Wilson, answering Fisher's question as to where the first ransom bill had appeared, had mentioned that the bank was near the Majestic Apartments, Wilentz took advantage of the opening to ask Wilson if he knew where Hauptmann had worked. The witness replied that Hauptmann had worked at the Majestic Apartments but Fisher objected, unless he could prove that he knew this of his "own knowledge." The Court ruled that Fisher could cross-examine on that point.

After Wilentz finished, therefore, Fisher asked Wilson his concept of "your own knowledge." Wilson replied that if he had read a sworn statement or read a transcript of evidence in a court procedure he could consider that "of his own knowledge."

Under re-cross-examination by Fisher, Wilson was asked seemingly foolish questions as to whether he had ever seen Hauptmann work or heard his voice while he was working at the Majestic Apartments. The witness replied in the negative. Fisher then, without proving anything definitely, took up the method of exchanging money after the gold embargo.

Wilentz, on redirect examination, had the witness state that the circulars giving the serial numbers of the ransom bills were sent to brokerage houses. He sought to explain that the name of J. J. Faulkner on the deposit slip meant very little, as the Federal Reserve bank had not stressed identification of the individual during the exchange of gold notes.

Fisher interrupted with a request for an explanation of what had become of the $20,000 removed from the ransom money

package the night the $50,000 was paid to "John." Wilson explained that at the direction of Colonel Lindbergh this $20,000, made up of fifty-dollar bills, had been brought to the Colonel's bank.

H. NORMAN SCHWARZKOPF

Colonel H. Norman Schwarzkopf, Superintendent of the New Jersey State Police, examined by Large, identified two specimens of request writings and declared they had been written voluntarily by Hauptmann. They had been dictated by Inspector John A. Lyons of the New York City Police Department. The Colonel made it clear that the spelling was Hauptmann's; he had been allowed to spell as he wished.

The cross-examination, conducted by Fisher, elicited that the request writings were obtained from Hauptmann at about 7 P.M. on September 19th, 1934, approximately ten hours after he was arrested. The Colonel emphatically denied that Hauptmann was promised anything for his coöperation, or that any force was used. After the police had explained to the defendant why a sample of his handwriting was wanted, he willingly complied. The Court then pointedly asked Fisher whether he wished to present proof of the question of the voluntary character of this act. Fisher indicated that at this time he did not wish to do so. These samples of Hauptmann's writings were admitted in evidence despite strenuous objections from the defense.

STATE'S HANDWRITING EXPERTS

The State's handwriting experts, Albert S. Osborn, Elbridge W. Stein, John F. Tyrrell, Herbert J. Walter, Harry M. Cassidy, William T. Souder, Albert D. Osborn and Clark Sellers were all in agreement as to the writer of the ransom notes. Under lengthy examination, they insisted that all had been written by one man. They also maintained that if Bruno Richard Hauptmann had written the request and conceded writings, then he had written the ransom notes.

Asked about the possibility that the handwriting in the ransom notes had been a copy of Hauptmann's handwriting, Albert D.

Osborn replied, "I think that is a probability that is so far-fetched that it is absolutely ridiculous."

These experts explained that the amount of handwriting needed as a sample for the forging of all those notes would have been impossible to accumulate. Each maintained that the writings upon which their conclusions were formulated was more than enough with which to experiment. Sellers, strengthening this conclusion, declared:

> . . . I will make this general statement, that a combination of characteristics of the kind that is shown here, and other characteristics in Mr. Hauptmann's writing, may just as truly identify him as a combination of scars, moles and birthmarks or whorls and loops in combination may identify a man by his fingerprints. So convincing to my mind that Mr. Hauptmann wrote each and every one of these ransom notes—it is, I say, so convincing to my mind, that he might just as well have signed each and every one of them.

Because of the number of handwriting experts, and the repetitive nature of their testimony, much of it was lost by the spectators as the prolonged repetition dulled their interest. What the jury thought of these lengthy examinations cannot be answered.

HILDEGARDE ALEXANDER

Miss Hildegarde Alexander, of 730 East 236th Street, New York, was examined after Albert S. Osborn, thus interrupting the sequence of the handwriting testimony. She testified that in March, 1932, she saw Condon at the telegraph operator's office in the Fordham Station of the New York Central Railroad, some time between six-fifteen and six-thirty in the evening; also a man who appeared to be watching the doctor, perhaps fifteen feet away. Asked what had caused her to fix on the man watching the doctor, she answered, "The fact that he was very obviously watching him, very significantly."

Defense counsel objected that her statement was a conclusion, but was overruled by the Court.

Miss Alexander declared she saw this man again approximately

two or three evenings later on Fordham Road and Webster Avenue, the Bronx. She coolly and deliberately identified him as Bruno Richard Hauptmann. Seeing Hauptmann's picture in the newspaper after his arrest, she mentioned the incident to her mother. Some friends reported her story to the foreman of the Bronx Grand Jury, who then summoned her.

Reilly, on cross-examination, asked her in minute detail why she had gone to the Fordham Station to telephone. She explained that she was attending evening high school in the Bronx and took the elevated railroad from her office to the school. When she reached her station she telephoned her mother that she would eat in the neighborhood of the school instead of at home. Miss Alexander had met Condon in 1923 while she was employed as a cashier in a Bronx theater. The manager had introduced her to him to inform him that although she was working as a cashier, she was also attending school. She had seen him occasionally thereafter, while working at the theater. She had never seen Condon between 1924 and 1932.

Reilly made her repeat just how she had entered the station, the relative positions of the people as she entered, and just where the others were while she was telephoning. Her telephone conversation had lasted several minutes and when she emerged from the booth, both Condon and the man had left. She was very emphatic in stating that she had never discussed the case with Condon.

Wilentz on redirect examination was able to elicit that she had previously told this story to the District Attorney of Bronx County, New York, and specifically asked to be given no publicity.

MORTON CLEMMER MAISH

The sequence of handwriting experts was again interrupted to allow Morton Clemmer Maish to appear after Herbert J. Walter. Examined by Wilentz, he testified he was the owner of a concern which manufactured thumbguards; the thumbguard previously introduced in evidence as the one worn by the Lindbergh baby and found by Betty Gow, was one he had manufactured of monel

metal, approximately 30 per cent copper and 70 per cent nickel. Maish emphatically stated that the chemical composition of this metal prevented rust. He denied that it would show more rust or corrosion if exposed to the elements for a few months than were apparent on the thumbguard in evidence.

Under cross-examination by Reilly, Maish enumerated a long list of firms engaged in the manufacture of thumbguards, but was certain that the thumbguard in evidence had been made by his firm. Despite Maish's contention that the metal would not rust, Reilly declared that his metal had never been subjected to scientific tests.

On redirect and re-cross-examinations, the witness adhered to his opinion. He emphatically denied that his presence in the courtroom had been determined by personal gain.

The following day, Pope objected at length to his testimony but was overruled by the Court.

WILLIAM J. ALLEN

Following Clark Sellers, the last handwriting expert, William J. Allen was examined by Peacock on January 17th. He identified himself as the truck driver who found the body of Charles A. Lindbergh, Jr., when he stopped the automobile in which he was driving and went into the woods "because of nature." He described how he got out of the automobile, walked into the underbrush and found the body, which was lying fully exposed on the ground. It appeared to him as if a hole about three feet long and a foot deep had been dug. The body was face down on the soft dirt. He did not disturb the body, and he ordered his companion, Orville Wilson, whom he called, not to touch it. He drove immediately to Hopewell and notified Charlie Williamson, Hopewell police official. At this time, the photograph of the locality, after strenuous objection from the defense, was admitted in evidence.

Under cross-examination by Reilly, Allen repeated his description of his discovery of the child's body, four and a half miles from the Lindbergh home.

ORVILLE WILSON

Orville Wilson was next called and corroborated Allen's testimony about the discovery of the child, but thought he had seen a little piece of clothing of some kind on the body. He identified the photograph in evidence as a reproduction of the locality where the baby was found.

Fisher cross-examined, and the witness stated that the body was found in Mercer County on property which he believed to be owned by the St. Michael's Orphanage of Hopewell. Fisher asked whether he knew the population of that institution. Wilson, very much surprised at the question, did not. Defense counsel then asked him whether he knew the ages of the children there. The witness continued in surprise at Fisher's interest in the orphanage. After hesitating, he said, "I really don't know anything much about the institution."

Peacock, on redirect examination, had the witness testify that some of the institution's buildings were about a half a mile back on the opposite side of the road from where the baby was found. Fisher in re-cross-examination, seemed to be very much interested in the distance of the various orphanage buildings from the spot where the body was discovered.

ANDREW ZAPOLSKY

Sergeant Andrew Zapolsky of the New Jersey State Police then testified that on May 12th, 1932, he, accompanied by other officers, had gone to the place where the baby's body had been found. He had observed that there were some leaves on part of the body and that there was some curly hair around the head. He examined the body and, as it was lying face down, turned it. Having compared the head with the photograph of the Lindbergh baby, he identified it as that of the kidnaped child.

Fisher under cross-examination made Sergeant Zapolsky repeat practically all of his direct testimony. When the witness was shown a photograph, he was unable to state whether the position of the body had been changed when the photograph was taken. He did

not know when it was taken. He did not know whether a chisel and a tack hammer had been found on the scene, as he had not examined the surroundings before his superior officers arrived. When Fisher asked about the orphanage, the witness stated that he knew nothing about the number of inmates.

HARRY W. WALSH

Inspector Harry W. Walsh of the Jersey City police next testified there was a piece of clothing on the body, which he had matched with the cloth obtained from the Lindbergh home. In turning over the body, he used a stick, which accidentally penetrated the child's skull. He described the ground underneath the body as having been depressed to form a cavity about eight or ten inches deep and as long as the child's torso.

The inspector was cross-examined by Reilly. He gave the dimensions of the cavity as about three feet long and eight or ten inches deep, but could not say just how it had been made. Inspector Walsh stated that he did not report the incident in which he penetrated the child's skull with the stick, to either the coroner or the County physician. His statement occasioned considerable surprise although he insisted he had informed Colonel Schwarzkopf of the accident. On the scene the inspector found a burlap bag, but no tack hammer or broken shovel.

WALTER H. SWAYZE

Walter H. Swayze, the coroner of Mercer County in May, 1932, corroborated previous testimony as to the position and condition of the child's body. He was informed by the State Police of the discovery of a body and, after an examination of the scene, ordered its removal to the morgue in Trenton. Colonel Lindbergh arrived at the morgue the next day and identified the child as his own. The coroner said that Betty Bow also identified the body. Swayze was present when Dr. Mitchell, the County physician, performed the autopsy. The death certificate was now introduced in evidence over strenuous objections from Reilly who, in his cross-examination, made much of the fact that, although Swayze was a coroner, he

was an undertaker and not a physician. In discussing the death certificate, Reilly had the witness admit that when he made it out, the cause of death thereon had been furnished him by someone else.

CHARLES H. MITCHELL

Dr. Charles H. Mitchell, the County physician, was next examined by Wilentz. He performed an autopsy on the body of the Lindbergh child on May 12th, 1932; he remembered it very well as he did not, on that date, perform an autopsy on any other child. In describing the body, he stated that the facial expression was quite good; the facial muscles had not deteriorated although the body was badly decomposed. As he looked at the child's face he had a picture of the Lindbergh child to compare it with; the resemblance was sufficient for him to identify it.

He gave the cause of death as a "fractured" skull caused by external violence. There was vigorous opposition from defense counsel when Wilentz sought to determine when death had occurred in relation to the production of the fracture, but each objection was overruled. Finally, the witness was permitted to state that he thought death had occurred instantaneously or within a very few minutes following the fracture. Dr. Mitchell insisted that the child had been alive when the fracture occurred. He admitted that certain organs were missing, but stated that their absence in no way interfered with his opinion as to the cause of death.

Reilly cross-examined aggressively, going into detail as to Dr. Mitchell's experience. Dr. Mitchell calmly sat in his chair, was terse in his answers, and at no time volunteered more than was asked of him. He was obviously aware of Reilly's hostility, which he parried. Dr. Mitchell stated that he had been a physician for the past forty years and had been graduated from the University of Pennsylvania. He had performed approximately one thousand autopsies, perhaps more than one hundred on children.

Asked why he had not examined all of the organs, Dr. Mitchell explained that some either had not been present or had been so badly decomposed that it was impossible. The doctor described the usual autopsy procedure and the careful examination made to

determine whether or not the child had been choked to death. Because all of the organs were not present, Reilly sought to infer that the examination was perfunctory. Dr. Mitchell, slightly angry, declared that he thought it was a "mighty good one."

There was a detailed discussion of the official report. Reilly had the witness testify that a child clothed as the Lindbergh child had been, and with the climate that prevailed that night, would have died of exposure in perhaps twenty hours. If the child had had a cold, its lowered resistance would, perhaps, have caused death from exposure even sooner. Reilly seemed surprised that the witness had thought himself well qualified to perform the autopsy alone and seen no need for assistance. Dr. Mitchell insisted that he at no time had said that the hole in the child's head had been produced by a bullet; he compared the hole in the child's skull with that of a hole made by a bullet.

Reilly asked if he knew that Dr. Goettler, a New York toxicologist, had been summoned to assist him at the autopsy.

The witness replied, "I never heard of it before."

Colonel Lindbergh and Betty Gow identified the body after the autopsy had been performed.

The doctor gave as a reason for the statement that the child was alive when it sustained the skull fracture, the presence of a blood clot at the seat of the fracture. If the child had been dead at the time the fracture was produced, there could not have been any coagulation of blood. He described the position of the blood clot on the brain in relation to the fracture but admitted he had not photographed it.

Each time Reilly tried to indicate that Dr. Mitchell's autopsy was faulty, the witness repeated that he had made a "good job." Such hostility continued until the end of the examination because of Reilly's continued attack on the witness' professional ability. The autopsy report was now admitted in evidence.

FRANCIS D. BARTOW

Before and after the testimony of Francis D. Bartow, partner in J. P. Morgan and Company, several employees of that company testified about the preparation of money used in the ransom negotiations. Bartow testified to the delivery of the money to Alfred J. Reich on authorization from Colonel Lindbergh. None of these witnesses was cross-examined.

JOHN JOSEPH LYONS

John Joseph Lyons, examined by Wilentz, testified that he lived in New York City and worked at the Warner-Quinlan gasoline station at One Hundred and Twenty-seventh Street and Lexington Avenue, New York City. He saw Bruno Richard Hauptmann on September 15th, 1934, in a dark Dodge sedan automobile in which Hauptmann drove to the station for gasoline. Lyle, the manager of the station at that time, sold him five gallons of gasoline while the witness checked the water and wiped the windshield. Lyle received a ten-dollar gold certificate in payment. As the witness was about to testify in regard to the conversation which took place between Lyle and the defendant in the presence of the witness, there was a long discussion as to the relevancy of this conversation. The Court overruled objections by Pope and Reilly.

The witness explained that Lyle said to Hauptmann as he held the ten-dollar gold certificate in his hand, "You don't see many more of them. The defendant replied, "I only got a hundred more left."

Immediately after receiving his change, Hauptmann drove away. As he departed, Lyle and the witness watched the automobile, then walked into the office, and Lyle wrote the license plate number of the automobile on the back of the ten-dollar bill. Wilentz handed the witness the ten-dollar gold certificate and he identified it as the one obtained by Lyle.

When Wilentz attempted to offer the bill in evidence, Pope objected at length to its admission, declaring, besides other reasons, that since there was an indictment pending in the New York courts against the defendant on the charge of extortion, this ten-dollar bill might relate to another crime, but was in no way connected with this trial. The Court finally ruled that the bill be marked in evidence.

Wilentz continued, and the witness testified that when he received his salary, this bill was part of it, and he took it to the Corn

Exchange Bank at One Hundred and Twenty-fifth Street and Park Avenue. In exchange for it, he received two five-dollar bills.

Reilly took the witness for cross-examination and asked just one question: "And then you put a claim in for the reward, didn't you?" His manner indicated that the witness was guilty of some unpardonable deed.

Wilentz objected, and after a long discussion, although Wilentz finally agreed to withdraw the objection, the Court ruled the witness might answer.

Lyons answered twice, "Yes, sir. Yes, sir."

MIRAN JOHN OZMEC

Miran John Ozmec was examined by Wilentz and testified that in September, 1934, he was working as a teller in the Corn Exchange Bank at One Hundred and Twenty-fifth Street and Park Avenue, New York City. He knew Lyons, the previous witness, and remembered the incident of the ten-dollar gold certificate. When he had received this bill, he put it in a specially marked drawer because of the gold embargo. At the close of the day's business he wrapped up the money and surrendered it to the head teller. On the Tuesday following this incident, Mr. William R. Strong discovered the bill.

WILLIAM R. STRONG

William R. Strong was now called and identified himself as an employee of the Corn Exchange Bank. He testified that, as a result of an order, all the tellers in the bank had been directed to inspect gold certificates received and to place them in a special compartment. Strong identified the ten-dollar gold bill. When the witness received the package of money from the teller and counted it, he noticed two gold bills. He took these two out of the package and compared them with his chart of serial numbers. One bill number matched a number on the ransom list. He immediately informed the police.

Fisher, cross-examining very briefly, elicited the information that Strong had noticed nothing else about the bill except its number.

JOHN JOSEPH LYONS

Lyons was now recalled and Wilentz asked a few questions about the location of the gasoline station. The witness stated that Hauptmann had not been a regular customer and that this was the first time he ever saw him there.

Fisher cross-examined the witness, who stated that he worked eight hours a day at the gasoline station, which was open twenty-four hours. Bringing out the point that since Lyons was away from the station for about sixteen hours each day, it was possible that Hauptmann might have been a regular customer, Fisher concluded.

WILLIAM F. SEERY

William F. Seery, examined by Wilentz, identified himself as a special agent in the Division of Investigation of the United States Department of Justice for the past fourteen years. Since March, 1933, in connection with his duties, he had checked the Lindbergh ransom bills which came to the attention of the Department of Justice. In September, 1934, he visited the Corn Exchange Bank at One Hundred and Twenty-fifth Street and Park Avenue and obtained a Lindbergh ransom bill from Strong. In exchange for that bill, which he identified by serial number, Corporal Horn gave Strong a ten-dollar bill in ordinary currency. Corporal Horn observed a number on the back of the bill. From the arrangement of the figures the conclusion was reached that it was a vehicle license number. On that assumption Lieutenant Finn telephoned the New York State Motor Vehicle License Division and obtained the name, address and description of the individual to whom that license had been issued.

This ten-dollar bill had been deposited either by a gasoline station or a garage; a talk with the bank tellers revealed the accounts of three gasoline stations. They went to the first name on the list, the Warner-Quinlan gasoline station at One Hundred and Twenty-seventh Street and Lexington Avenue. There they interviewed Lyons and Lyle, from whom they obtained a description of the man who had given them that bill. The description of the man

coincided with Condon's description of "John." Reilly excitedly asked that that answer be stricken from the record and the Court immediately granted his request. Wilentz enabled the witness to state that Hauptmann, on the morning he was arrested, was asked about the gasoline station, and stated that he had given a ten-dollar certificate in payment for gasoline there on the Saturday before his arrest.

Seery declared that at the time he received a telephone call from the Corn Exchange Bank, he was engaged in checking two other gold certificates.

The Attorney General discussed another bill, identified as a ten-dollar gold certificate discovered on September 6th, 1934, at the National Bank of Yorkville on a deposit slip from the R. Boken Fusca Company on September 5th, 1934. After Hauptmann's arrest, this particular bill was discussed with him in the presence of Salvatore Lavatino. Hauptmann, asked about the bill, looked at Lavatino and said, "Don't you remember me giving you this bill?"

Defense counsel strongly objected to the admission of this bill in evidence but it was granted by the Court. Wilentz now stipulated that he would recall Seery at some future date.

Under cross-examination by Reilly, Seery stated he had been tracing bills in the Lindbergh case since March, 1933. Prior to that, Special Agent Manning of his department had been so engaged; at times Thomas H. Sisk, also of that department, had traced them. The witness stated that they both had made reports which he reviewed. According to these reports, the first bill was located at the East River Savings Bank, Ninety-sixth Street and Amsterdam Avenue, New York City, on April 5th, 1932. Seery testified that the bank was about twenty-four blocks from the Majestic Hotel. Defense counsel called the witness' attention to Wilson's statement that no ransom bills had turned up in any place except New York City. The witness agreed with Reilly that some had shown up in Albany, Utica and Troy and near Chicago.

Seery read a long list, giving dates and places of appearance of ransom bills. The last bill, excluding Hauptmann's monies, had been a ten-dollar gold certificate obtained on August 30th, 1934.

Except for the deposit made in the Federal Reserve Bank in New York, only one bill at a time had appeared in New York. Reilly then asked about those which had appeared outside of New York City. Seery testified that one bill had been traced to the Mount Vernon Trust Company on June 30th, 1932. The witness stated that no money had been passed in Europe. Reilly, in view of the fact that Seery was to be recalled, discontinued.

Under redirect examination by Wilentz there was a general discussion eliciting that there was no way of knowing how many bills were still in circulation and that it was even possible for the Treasury Department to have destroyed some if they had been returned as worn bills. Wilentz now called the witness' attention to a twenty-dollar bill which had come from the Chase National Bank in the Bronx and been traced to a shoe store. The witness said that on the day of Hauptmann's arrest they found a box of shoes in his home. When that bill and the shoes were discussed with Hauptmann, the defendant had admitted tendering a twenty-dollar gold certificate at that store about the date the bill appeared, September 8th, 1934. Hauptmann told Seery he had purchased a pair of shoes for his wife. The bill was offered in evidence and Reilly objected:

Subject to the objection raised by Mr. Pope before on the question of this money, which I take it will run to all of this money without further objection.

The Court: Well, I would not want to have you misled about that.

Reilly: Mr. Pope will be with us every time.

The shoes were now accepted in evidence despite Fisher's objection. Then Wilentz made the witness specifically state that they were found in the Hauptmann home in the presence of the defendant and his wife.

When Hauptmann was arrested, a twenty-dollar gold certificate was found in his wallet. Before Seery could finish his description of the bill, Pope jumped up with an objection.

Justice Trenchard, surprised, asked, "Well, why?"

Pope made a very long speech in which he claimed it was entirely

irrelevant and remote, as the twenty-dollar bill in question was not connected with the crime and in no way had anything to do with the defendant. The Court, when Pope finished, asked the Attorney General if he wanted to say anything.

Wilentz, expressing mock surprise in order to ridicule, stated: "Why, if your Honor please, I didn't think there was a person in this room who could feel that the tracing of this money was disconnected with the crime . . ." The Court agreed that it was evidential and allowed an exception.

The witness stated that while he was sitting in the automobile with Hauptmann, the defendant told him that over a period of years he had been accumulating gold certificates in fear of inflation; this money represented part of that sum. When asked whether he had more at home, Hauptmann had replied one hundred. Later, in his home, they found a little more than one hundred dollars in gold coin. When Hauptmann's attention was called to the fact that he had referred to gold certificates, he replied that he had meant gold coin. The exact amount consisted of six twenty-dollar gold pieces.

The witness stated that Hauptmann informed him on September 19th, 1934, that he possessed no more gold certificates. On September 20th, 1934, they had found $13,760, all of which was Colonel Lindbergh's money, in the garage owned by Hauptmann. On September 25th, buried in a beam of the garage, additional ransom money was also found. Justice Trenchard now asked for the total and was informed that it was $14,600.

Reilly took the witness for re-cross-examination and continued to discuss the appearance of the Lindbergh ransom bills in various sections of the world. There were a few more questions about the money recovered, and then Reilly sought to minimize the value of the witness' testimony. He brought out that Seery was not present when the garage was searched; it had been his job to check the bills. Neither was Seery present when Hauptmann's garage was torn down.

In conclusion, Reilly asked, ". . . Now may we have five minutes to digest this gold?"

ELMIRA DORMER

Mrs. Elmira Dormer, custodian of St. Michael's Orphanage, located near the place where the body was found, was examined by Wilentz. She testified that in March, 1932, the population of the orphanage had been three hundred and six children whose ages ranged from two weeks to sixteen years. Wilentz so framed his questions as to allow her to declare that all children had been accounted for and none had been missing during the entire year of 1932. She remembered the discovery of the body of the Lindbergh child and was certain that it was not that of any child from her institution. She thought the body of the child had been found "about ten good-sized blocks away" from the orphanage. Wilentz announced that if there were any disputes in regard to the attendance at the St. Michael's orphanage during the year of 1932 he would offer all the records in evidence.

Fisher entered into a discussion with Wilentz in regard to that and Reilly interrupted: "I will say now that there had never been any claim but that this was Colonel Lindbergh's child that was found there . . ."

The courtroom was startled at this announcement. Fisher, standing a few feet from the defendant, became quite excited, and in an aside which was heard by a few people and by the defendant, stated, "He is conceding the defendant to the electric chair." His anger was manifest to all who observed him as he rapidly walked out of the room.

Reilly took over the cross-examination and was very much interested in Mrs. Dormer's description of the surrounding country. He asked about a police dog she had at the institution. He offered the suggestion that that locality was probably used for hunting. Mrs. Dormer had observed hikers through the woods accompanied by dogs.

Wilentz, on redirect examination, brought out that the dog was usually locked up at night.

THOMAS H. SISK

Thomas H. Sisk, examined by Wilentz, identified himself as special agent in the Division of Investigation in the United States Department of Justice. He had been present at Hauptmann's arrest. Asked to give the circumstances of the arrest, he complied:

We pulled his car to the curb between One Hundred Seventy-seventh and One Hundred Seventy-eighth Streets, on Park Avenue in New York City in front of a garage. He was pulled out of the car and Lieutenant Arthur Keaton of the State Police, and I believe a New York police officer and myself started to search him. Lieutenant Keaton took from his rear left-hand pocket a wallet, and out of that wallet, in Hauptmann's presence, he took a twenty-dollar gold certificate. Special Agent Seery checked that bill in Hauptmann's presence and found it was one of the Lindbergh ransom bills.

The Attorney General exhibited some pieces of paper which Sisk identified as having been found in Hauptmann's home. Pope, after looking at them, objected strenuously that the papers were "irrelevant and immaterial. They appear to be on their face merely lottery tickets and certainly cannot have any connection with this case against this defendant." Wilentz replied:

. . . this gentleman did not work from April the 2nd, 1932, which is the date of payment of the ransom, and we stated that we would prove to the jury that these monies which he obtained were spent in a certain fashion.

I think that amongst the things we referred to was that he spent some money on lotteries. . . .

The Attorney General admitted that he was, perhaps, premature in his presentation and if counsel objected he would just mark them for identification and present the evidence in some other fashion. The Court agreed. Wilentz, aware of the importance of this witness' testimony asked:

Q. Where did he say he got that twenty-dollar bill? A. He said that this particular bill was one of an accumulation of three hundred dollars

in gold bills which he had accumulated for several months. I asked him where he got the bills and he said from different banks in New York during the past several months prior to the arrest. I asked him to name one bank and he named the Central Savings Bank of New York City. I asked him if he could name any other bank and he said no. I asked him if he had an account at the Central Savings Bank and he said yes.

So I said, "Well, we will go up there to the bank and see whether or not that bank gave you any gold certificates. If you have an account there, the tellers probably know you."

So then he said, "Well, no, I didn't get them at the Central Savings Bank. I just got them from every place that I went, and if I could get a gold certificate, I would get it, because of the inflation," or something of that—

Wilentz interrupted to ask what, according to Hauptmann, had happened to the three hundred dollars. Hauptmann told Sisk that "this particular bill here was the last one." Sisk asked Hauptmann if the statement made to the men at the gasoline station about "a hundred more," were true. Hauptmann said, "Yes, that is a true statement . . ." Asked where they were, Hauptmann stated, "Up at the house, up at my house in a tin box." When they arrived at the house, Hauptmann produced a small metal box with a combination lock. After he had opened it and taken a hundred and twenty dollars in gold coins, he said, "There is the hundred dollars or more . . ." Then Sisk reminded him that when they referred to a hundred or more they meant paper money. Hauptmann did not answer. After this discussion, Sisk and the other officers started to search Hauptmann's house in his presence. The defendant sat in a chair near the window while the witness and Corporal Horn inspected the room. Corporal Horn was searching a dresser next to the closet where the witness had been examining shoes and clothes. Through the corner of his eye, Sisk observed the defendant. Hauptmann got up a little from his chair four or five times to look out of the window.

Sisk then took the same range of vision as Hauptmann, and asked, "What are you looking at when you are sneaking those looks out of the window?"

Hauptmann replied, "Nothing."

In that position, the witness noticed that the only visible objects

were a garage and a few trees behind it. Sisk asked, "Is that where you have the money . . . ?" and Hauptmann replied, "No, I have no money."

Nevertheless, the witness and Lieutenant Keaton accompanied by Inspector Lyons went to search the garage. There they observed two floor planks which appeared to have been loosened. With a crowbar they pried them up and discovered some freshly disturbed dirt. They got a shovel, started to dig and found a crock about one foot under the surface of the ground. There were about two or three inches of water in the crock, which had a lid. There was no money in it. They questioned Hauptmann about this, but he denied any knowledge of the crock. On the following day, they again questioned him and he stated that there had been money in the crock three weeks before his arrest.

All during this testimony, Hauptmann listened intently. His face was flushed and the emotional tension under which he was laboring finally burst beyond his control as he suddenly yelled, "Mister, Mister, you stop lying. You are telling a story." [86] He attempted to rise, his hand was outstretched; he was very much excited and his guttural voice rang out and startled everybody. The guards pushed him back into his seat.

Interrupting the witness, the Court declared: "One moment. Let me suggest to the defendant that he keep quiet. If he has any observations to make, let him make them quietly through counsel."

Sisk had remained in the house approximately one hour and a half and had asked Hauptmann about his bank accounts and whether he had any safe-deposit boxes.

When Wilentz inquired, "What did he say?" Reilly jumped to

[86] This outburst seemed to be interpreted by all as a direct reaction to Sisk's testimony. I, however, had watched the defendant carefully and observed a marked emotional change gradually taking place in him immediately after Fisher left the courtroom after Reilly's concession that the body was that of the Lindbergh child. The defendant's face was flushed and his respiration increased to such an extent that at times I counted it as high as forty-five respirations per minute. This emotional tension reached its climax at this point and accounted for the outburst.

In a conversation with Governor Hoffman a short time prior to Hauptmann's execution, he expressed the opinion that Hauptmann's outburst was warranted, as he firmly believed Hauptmann's story to him of having given the police detailed information as to how much money he had and where it was hidden, immediately after his arrest.

his feet and objected that it was "incompetent, irrelevant, immaterial."

Justice Trenchard, surprised, snapped, "Why so?"

Reilly orated, and in part stated, ". . . I say it is not competent unless it antedates the payment of the money that has been called here the ransom money, this witness should not be permitted—" And now he slowly, in a very ingratiating manner, said, "and I take it the Court will not permit—the witness to ramble all around on general conversations—let's assume—he must be confined—let's assume that Hauptmann was to tell him in one of these conversations that off in Australia at one time he struck a man, or done something like that—"

Before he could finish, the Court interrupted, "Oh, no. We will allow nothing like that."

Reilly pleadingly replied, "I know, but it will be in, Judge—the damage; that is why I ask you—"

The Court interrupted: "Well, now, I was assuming, without paying particular attention to the course of the examination, that these questions related to a time subsequent to the alleged obtaining of ransom money."

Wilentz declared:

> I am not interested in anything that preceded it, except this, if your Honor please: we are not only going to show, or attempt to show, if the Court will permit it, the accounts and monies after the obtaining of the ransom money but we are also going to show his financial status before that as compared with it. In other words, if your Honor please, we are going to attempt to show that on the 1st day of April, for instance, he had certain monies, certain securities; then from that time on we are going to attempt to show the difference.

The Court stated, "Well, now, it is quite likely that you may be permitted to do that."

After Wilentz replied, "Yes," the Court added, "What I am now interested in is the pending question, and Mr. Reilly objects to it . . . Well, it might I suppose well be confined a little bit, but I think by and large the ultimate purpose of the question is legitimate. We will see whether or not the Attorney General can frame a more confining question."

Sisk then stated that Hauptmann told him he banked either in his own or his wife's name at Steiner, Rause and Company, New York City; E. A. Pierce and Company, New York City; the Mount Vernon Trust Company, New York, and the Central Savings Bank, New York City.

After Hauptmann's arrest, Sisk stated, nothing was said about a lawyer's services until September 20th, and Hauptmann then replied, "What is the use?"

Reilly's hostile attitude toward the witness was apparent, and Sisk's manner was reciprocal. He was evasive in his answers, terse, and never volunteered information.

Reilly asked, "Now you are very much interested in this case, aren't you?"

The witness took time to answer, "Yes, sir." Asked whether he had been in direct charge of Department of Justice agents in the case, again he slowly replied, "Yes, sir."

Sisk waited a long while before he denied that Hauptmann was kept standing on the sidewalk for an hour and a half after he was removed from his automobile. According to the witness, he stood on the sidewalk only about five minutes. After the arrest, the officers waited for Inspector Lyons of the New York Police Department.[37] Sisk was unable to give the exact time but thought they waited about one hour, all of which time Hauptmann was seated in the automobile. In order to secure clear-cut answers, Reilly had to ask numerous questions before Sisk testified that after the arrest they took the defendant to his home.

After having been detained in his home for an hour and a half, Hauptmann was taken to the Greenwich Street police station. On the way, they stopped at a bank to check a safe-deposit vault. Hauptmann told the witness that either he or his wife had an account in a Mount Vernon bank. When Reilly tried to get him to answer who had had the account, Sisk stated that he did not conduct that investigation and would have to refer to reports on the case for the information. Reilly asked if he could bring them the next day. After hesitating, the witness snappily replied, "Yes, sir." Sisk was excused after this, and instructed to return with the records.

[37] This procedure was very strange and the obvious interpretation leaves no doubt but that the delay was for the purpose of allowing Inspector Lyons to share in the honors of the arrest.

HENRY EICHIN

Henry Eichin, surveyor for the City of New York, called by the State, identified a map which illustrated Woodlawn Cemetery, St. Raymond's Cemetery, Condon's home, Hauptmann's home and garage, and the streets involved.

JOHN WALLACE

On January 18th, Detective Sergeant John Wallace of the New Jersey State Police, examined by Wilentz, stated that on the night of September 18th, 1934, he and other police officers watched the Hauptmann home at 1279 East Two Hundred and Twenty-second Street, the Bronx. The detectives were divided into three groups: one consisted of the witness and detectives William Wallace of the New York City police and Trooper Dennis Duerr of the New Jersey State Police; another of Lieutenant Keaton, Special Agent Sisk and Detective Chester Kronin; another of Lieutenant Finn, Corporal Horn and Special Agent Seery. The witness described Hauptmann's departure from his home at about nine o'clock on the morning of September 19th, 1934. Using a map, he pointed out the route taken by Hauptmann. His automobile and the one in which the witness was riding were blocked in the vicinity of Tremont Avenue and One Hundred and Seventy-eighth Street by a municipal sprinkler. Trooper Duerr and the witness left their automobile and the trooper ordered Hauptmann to pull over to the curb.

The witness walked around to the right-hand side of Hauptmann's automobile and having opened the door, "slid in on the driver's seat with the defendant." The other police officers now arrived. The defendant was searched by Lieutenant Keaton and the other officers. In the left rear pocket, a wallet was found which contained a twenty-dollar gold certificate, a five-dollar bill and four one-dollar bills. After the officers had initialed the gold certificate, the defendant was brought back into the automobile and ques-

tioned. They were on the sidewalk only a few minutes, after which they proceeded to White Plains Avenue and Gun Hill Road where they waited approximately thirty-five minutes until Inspector John A. Lyons arrived, and then proceeded to Hauptmann's home.

The witness testified that Hauptmann was asked whether he had any more bills at home and he answered that he had only a hundred and twenty in gold coin in a strong box. When the officers arrived at Hauptmann's home they found this to be true. In his home, Hauptmann said that he had no gold certificates in his garage; he insisted that he possessed no money except the hundred and twenty dollars in gold coins. After his home had been searched, the defendant was taken to the Central Avenue Savings Bank and a deposit box opened in his presence. No money was found there.

The defendant was then taken to the Greenwich Street police station where he was asked to write to dictation; he was allowed to spell the words in his own way. The day after Hauptmann's arrest, the witness again returned to the defendant's home, accompanied by Detective James Petrosino of the New York police and Agent Turron of the Federal Government. There they met Detectives Murphy and Dunn of the New York police. Mrs. Hauptmann was present. The officers again made a detailed search of the home, and found a wooden plane about eighteen inches long with the trademark *Sargent,* the serial number "3418," the initials "V.B.M." and "H." Two packages of gold certificates wrapped in newspapers were found in a compartment in the south wall of the garage.

After the money was discovered, the witness returned to the Greenwich Street police station and informed Hauptmann, who explained that he had placed it there about two weeks prior to his arrest. Hauptmann said that the money had been wet and he had put it in a basket to dry. After all of it had dried, he wrapped the money in newspapers and concealed it. Previously, he had kept the money in a shoe box in a broom closet. The defendant denied the possession of other money.

Fisher cross-examined and had the witness repeat practically all of his direct testimony. Fisher pointed out that the witness' testimony in regard to Hauptmann's statement about the money varied from Agent Seery's testimony. Sisk admitted that he had not been present all of the time the officers were dictating to Hauptmann. Fisher, claiming that Hauptmann had informed Inspector Lyons he possessed the money and that the inspector sent for it, sought to imply that the witness was lying.

Wilentz, on redirect examination, seemed to think it important to bring out the coöperative spirit which had existed among the New Jersey, New York and Federal police authorities.

Fisher on re-cross-examination attempted to have the witness testify that there had been some degree of dissension among the police authorities as to the procedure immediately after Hauptmann's arrest. The witness denied it. Then Fisher tried to indicate they had all waited for Inspector Lyons in order to have him get the credit for the arrest. Before the witness could answer, defense counsel withdrew his question.

ELLA ACHENBACH

Mrs. Ella Achenbach, examined by Wilentz, testified that in March, 1932, she lived very near the Hauptmann home. She had met Mrs. Hauptmann in 1927 at which time she employed her as a waitress. A day or two after the kidnaping of the Lindbergh baby, Mrs. Hauptmann came to her front porch and said they had just returned from a trip. As the witness made this statement, Mrs. Hauptmann jumped to her feet and accused Mrs. Achenbach of lying. There was an argument between opposing counsel about Mrs. Hauptmann's attitude. The Attorney General, in addressing the Court, used the phrase, "whether they are staged or otherwise." Reilly was very much incensed at this phrase and the argument continued. With the intervention of the Court, Mrs. Hauptmann promised she would remain quiet hereafter and Reilly made the same pledge for the prisoner.

The witness stated that after she had conversed with Mrs. Hauptmann for about ten or fifteen minutes, Hauptmann joined them.

He appeared very well, but before they left, Mrs. Hauptmann said, ". . . Oh, another thing happened to Richard; he hurt his leg."

When Mrs. Hauptmann spoke of it, Hauptmann bent down and massaged his leg. As they left and descended the porch steps, Hauptmann supported himself on the side of the stoop, and as they walked away the witness observed that he limped.

Reilly cross-examined the witness, who stated that Mrs. Hauptmann had worked for her after she was married to Hauptmann, from 1927 to 1928. In the summer of 1928, Mrs. Hauptmann took one of the witness' daughters to Germany. Upon Mrs. Hauptmann's return, she presented Mrs. Achenbach with a bill, which she paid. The witness was very much incensed when Reilly seemed to be doubtful; she insisted that although she could not remember the amount, she had paid it. Reilly now elicited her observations in regard to Hauptmann's gait. She stated that she had not observed anything particular about it as he approached her porch. When Reilly tried to get her to state that Hauptmann had bent down to scratch his foot, she insisted that he massaged it. She persisted that she had observed the defendant limp and had told her husband. A few days after Hauptmann's arrest, she gave this information to reporters, and about a week after, reported it to officials.

WALTER LYLE

Walter Lyle, examined by Wilentz, identified himself as the manager of the Warner-Quinlan gasoline station. On September 15th, 1934, he sold the defendant five gallons of gasoline. He repeated and corroborated testimony given by Lyons. He was not cross-examined.

STANLEY R. KEITH

Stanley R. Keith, examined by Wilentz, testified that he was a metallurgist. He had affixed some metal tabs to the three sections of the kidnap ladder and placed corresponding tabs on the nails acquired from Captain Lamb.

Under cross-examination by Pope, the witness insisted he had had the ladder nails in his possession and was fully able to identify them. He had seen them reinserted into the ladder; he had not seen them removed from it.

JAMES PAUL PETROSINO

James Paul Petrosino, New York police officer, corroborated Sergeant Wallace's testimony regarding the search in Hauptmann's home, and Reilly cross-examined about the articles found in the garage.

JAMES M. CASHMAN

Detective James M. Cashman, New York police officer, examined by Wilentz, identified a chest of tools and four odd pieces of carpentry tools as those he took from the Hauptmann garage on the night of September 19th, 1934. All of these articles were admitted in evidence and the witness was not cross-examined.

CHARLES F. W. ENKLER

Charles F. W. Enkler, examined by Wilentz, identified himself as a carpenter attached to the New York City police. Under orders from Inspector Bruckman, chief of the detective division of Bronx County, New York, he, Patrolman Cramer, and Detective Tobin had demolished the Hauptmann garage on September 26th in an effort to locate ransom money. One of the boards of the garage wall had money concealed in it; in its natural position this had not been revealed, but when examined on the reverse side, five holes had been discovered. Bills had been rolled up very tightly to fit into the round holes. The money was given to Detective Tobin.

ANSELM CRAMER

Patrolman Anselm Cramer then corroborated in detail Enkler's testimony.

MAURICE W. TOBIN

Detective Maurice W. Tobin, examined by Wilentz, identified the board just introduced in evidence. The money found was now

admitted in evidence. The first hole in the board had contained $190, the second $200, the third $150, the fourth $200, and the fifth $100.

Tobin had been present when Inspector Bruckman examined the broom closet from which the board with an inscription was removed. When Wilentz tried to introduce it in evidence now, Pope insisted that he be given the opportunity to cross-examine Tobin.

Under examination by Pope, the witness stated that he had seen the numbers on the board before it was dislodged. He insisted that the numbers were now in the same condition in which they were when he saw them before, although slightly smudgd. The witness did not think that the figures "7" and "4" had been touched up for legibility. The board was then admitted in evidence.

HENRY D. BRUCKMAN

Henry D. Bruckman, examined by Wilentz, identified himself as chief inspector of the detective division of the Bronx. The board was exhibited and he identified it. He had gone to Hauptmann's home on September 24th, 1934. There he entered the broom closet and observed a smudge on a board. On closer investigation he noticed some writing, "2974 Decatur Avenue" and "3-7154"; a letter which appeared to be an "S" followed the figure "4." He was unable to determine the next letter, but the following ones were "D. G." He stated that 2974 Decatur Avenue was Condon's address and that the other numbers indicated the doctor's telephone number, which, however, had been changed since 1932. He and the District Attorney of the Bronx called Hauptmann's attention to the writing on the board and Hauptmann said he thought he had written it. Asked why, Hauptmann replied, "Well, I was a little bit interested and I must have had a newspaper and probably was putting paper on the shelf in the closet and I copied down this number."

Under cross-examination by Reilly, Bruckman testified that he did know Condon's telephone number and address at the time he found the board. Reilly sought to indicate that Inspector Bruckman was interested only in making an arrest in the case. The

witness denied Reilly's interpretation of his attitude. He insisted the light in the closet was reasonably good.

BENJAMIN ARAC

Benjamin Arac next identified himself as confidential stenographer to District Attorney Foley of Bronx County, New York. He produced the stenographic notes taken on September 25th, 1934, at which time Hauptmann was examined by the District Attorney. Wilentz asked the witness to read his notes, referring particularly to questions and answers about the board. The witness stated that Hauptmann had answered of his own free will; he did not know whether Hauptmann had been advised of his constitutional right to refuse to make a statement. Arac stated that the defendant had admitted the board was his, and even read from it the numbers "2974" and "3-7154." In answer to questions by Foley, the defendant explained that he had written these numbers on the board, which he must have read in newspapers, as he had been a "little bit interested."

Hauptmann had been unable to recall at what date he had written the numbers on the board. Foley asked, "You remember that you did write it?"

Hauptmann answered, "I must write it, the figures; that's my writing." Asked about the words, he repeatedly answered, "I hardly can read it."

Arac said Foley had examined Hauptmann again the next day, inquiring: "Hauptmann, yesterday I showed you a piece of wood from your house with Condon's address and phone number on it; is that correct? . . . You admitted that you wrote that on the board?" To both these questions, Hauptmann replied in the affirmative.

* * *

The Attorney General introduced in evidence a sheet of original records identified as Mr. and Mrs. Hauptmanns' brokerage and bank accounts. Pope did not object but asked the right to object later on, if the records appeared immaterial and not evidential.

WILLIAM MULLIGAN

William Mulligan, customers' man in the brokerage house of Steiner, Rause and Company, testified that Hauptmann had been one of his customers. When he first became his client, Hauptmann had an account in his own name; later there was an account in the name of Anna Schoeffler, Mrs. Hauptmann's maiden name, but Mulligan never dealt with her. Hauptmann always brought cash with him when he purchased stocks.

Reilly cross-examined Mulligan, who had known Isidor Fisch and identified a photograph of him, although Fisch had not been his client. Mulligan saw Fisch only five or six times perhaps in the office, and Hauptmann was always present. Fisch's visits took place between the spring and the end of 1933.

Wilentz, under redirect examination, had the witness repeat previous testimony.

On re-cross-examination, Reilly elicited that Fisch, without anyone's knowledge, could have given Hauptmann money to buy stocks and thus Hauptmann could have used his account for him. Mulligan could not recall whether when Hauptmann had brought cash to the office; he brought gold certificates. The firm checked none of the money and he was unaware at that time that the Federal Government had issued a pamphlet of the serial numbers of the Lindbergh ransom money. Mulligan finally testified that none of the bills given by Hauptmann to his firm had been reported as ransom money.

JOSEPH H. BURKHARD

Joseph H. Burkhard identified himself as the lawyer who had acted in the transfer of a mortgage of $3,750 by Katie Yonker to Mrs. Hauptmann on January 3rd, 1933. The transaction was in cash and Hauptmann directed that the mortgage be placed in his wife's name. Reilly strenuously objected to the admission of the certified copy of the mortgage in evidence. The Court finally allowed it on condition that the defense had the right to move later, if necessary, to strike it out.

Cross-examined by Reilly, Burkhard stated that the money, $3,750, was deposited by him in the Bank of Manhattan in Brooklyn.

HARRY TRISTER

Harry Trister next testified that Hauptmann, on June 1st, 1932, had opened an account in the Mount Vernon Trust Company, Mount Vernon, New York. Trister was a teller in that bank. During 1932, the defendant deposited $232.75 in silver coin and in 1933, $160 in coin.

There was a brief cross-examination by Reilly about the defendant's individual deposits. Trister stated that all of the deposits were small amounts, "small bills and a lot of change."

On redirect examination he testified that the total deposits for 1932 had been about $1200 and for 1933, $610.

HERMAN RIEDRICH, JR.

Herman Riedrich, Jr., employee of the Central Savings Bank at Broadway and One Hundred and Seventy-third Street, New York City, testified that Mrs. Hauptmann, under the name of Anna Schoeffler, had an account there at the present time. He further explained that this had been the name originally used when the account was opened; it was changed to a joint account for Anna Hauptmann and Richard Hauptmann on January 16th, 1928. On March 25th, 1933, the account was again changed to Anna Schoeffler.

Reilly under cross-examination had the witness testify that when the original account was transferred to the joint account, there was an initial deposit of $411.16; when the joint account was changed to the name of Anna Schoeffler, $2,528.35 was transferred. The present balance was $1,086.08. On September 25th, 1934, $1,500 was withdrawn and paid to James M. Fawcett, Hauptmann's first attorney.

Wilentz, under redirect examination, had Riedrich testify that on April 2nd, 1932, Anna Schoeffler had a balance of $203.90; at the end of 1933 there was a balance of $5,040.80; on the day Hauptmann was arrested, there was a balance of $3,578.

Reilly took the witness again and elicited that since April 2nd, 1932, the witness' attention had never been called to the fact that Hauptmann, in his deposits, used ransom bills.

WILLIAM E. FRANK

William E. Frank, examined by Wilentz, identified himself as an agent of the Intelligence Unit of the United States Treasury; he had analyzed the bank and brokerage accounts of Mr. and Mrs. Hauptmann. On April 2nd, 1932, the cash assets of the Hauptmanns amounted to $203, deposited to their credit at the Central Savings Bank in New York City; they had fifty shares of Warner Brothers stock which cost $987.50, but on that date the stock was worth $100. The witness specifically stated that from April 2nd, 1932, until September 19th, 1934, Hauptmann had paid $16,942.75 in cash to brokerage houses. The bank accounts and deposits during that period had shown deposits of $9,173.25. From April 2nd, 1932, to September 19th, 1934, there had been a stock loss of $5,728.63. Prior to April 2nd, 1932, an analysis of Hauptmann's brokerage accounts revealed a loss of $3,403.66. Wilentz got Frank to total the assets of the Hauptmanns from April 2nd, 1932, to the time of arrest, including bank deposits, cash given to brokerage houses, the mortgage, the $14,600 found in the garage and the $120 in gold found in the defendant's house. The amount was $44,486.

The witness, in proving that this sum should be considered direct assets, explained that all this money could be accounted for, exclusive of cash loans which might have been made by the defendant during that period which he had analyzed. Frank gave detailed analyses of the various stock transactions, the bank deposits and payments of money from bank to brokerage houses and brokerage houses to banks.

Reilly, in a very thorough cross-examination, made the witness give a detailed account of Hauptmann's stock transactions prior to 1932, all of his bank accounts and all of Mrs. Hauptmann's financial transactions. He had him name every stock Hauptmann had purchased, the date of purchase and sale and the amount of money involved. Defense counsel tried to get the witness to indicate that Hauptmann had been a trader, and that, therefore, the cash to which the witness referred as having come from some outside source, had come from profits. Frank insisted that his analysis proved otherwise and that his accounting was correct.

Wilentz on redirect examination discredited Reilly's theory of profits by having the witness prove that Hauptmann had got the money elsewhere as he had sustained a loss of $5,728.63 from April 2nd, 1932, to September 19th, 1934. The Attorney General stressed by implication that the defendant, prior to Condon's payment of ransom to "John," had never dealt in Wall Street to the extent of $50,000 a month, but afterward had.

The witness was interrogated about some of Hauptmann's aviation stock transactions.

When Frank was asked if he knew Colonel Lindbergh's business, Reilly, aware of the effect of this association on the jurors, jumped to his feet at this point and asked for a mistrial because of the mention of the Colonel. The motion was denied.

Reilly on re-cross-examination, discussed the prices paid for the various stocks. Under redirect examination by Wilentz, Frank emphatically stated that the defendant had made various deposits in small silver coins from April 2nd, 1932, until his arrest.[38]

[38] After Hauptmann's execution the Bureau of Internal Revenue issued the following report of Hauptmann's accounts. This report is based on the investigations of Mr. Frank who interviewed Hauptmann at the Flemington jail and checked a statement made to him by Hauptmann by going to all the stores at which the purchases had been made. Mr. Frank also checked Hauptmann's bank and brokerage accounts.

ASSETS AS OF SEPT. 19, 1934

Mortgages	$ 7,500.00
Stock and brokerage account balances	8,781.12
Mount Vernon Trust Company stock	89.25
Cash, Central Savings Bank	2,578.00
Cash, Manhattan Savings Institution	260.65
Investments in furs	5,500.00
400 Hudson seal skins in house	1,100.00
Gold coins in house	120.00
Ransom bills in garage	14,600.00
Total assets	$40,529.02

BARNEY L. FINK

Barney L. Fink, associated with the New York Telephone Company, next explained that Condon's present telephone number was not listed; the doctor's listed telephone number prior to April 12th, 1932, was Sedgwick 3-7154.

Reilly cross-examined the witness, who testified that the new telephone books had been issued some time in May, 1932; therefore Condon's telephone number had been available until that date.

EDWARD F. MORTON

Edward F. Morton, construction timekeeper at the Majestic Apartments in New York City in 1932 at the time Hauptmann worked there, brought records which were introduced in evidence. He was interrogated about various items on the time card and the hours and the dates of Hauptmann's employment.

EXPENDITURE AFTER APRIL 2, 1932

Stock market losses	$ 5,728.63
Rent	1,500.00
Food, &c.	3,465.00
Clothes	1,360.00
Radio	396.00
Canoe	109.00
Binoculars	126.00
Mrs. Hauptmann's trip to Germany	706.00
Life insurance premiums	494.00
Magazine of Wall Street	190.00
Hunting trips, Maine and New Jersey	150.00
Settlement of auto accident damages	230.00
Sent to Hauptmann's mother in Germany	150.00
Hunting rifle	56.00
Furniture	250.00
Medical expenses	170.00
Trip to Florida	100.00
Auto upkeep	350.00
Total expenditures	$15,530.63
Grand total	$56,059.65
Assets as of April 2, 1932	$ 4,941.40
Known earnings of Hauptmanns, April 2, 1932 to Sept. 19, 1934	1,167.81
Total	$ 6,109.21
Unaccounted for and therefore presumed to be ransom money	49,950.44

The witness stated that on April 2nd, 1932, Hauptmann did not work, but that he did work on April 1st; he returned to work on April 4th, the Monday following the Saturday of the ransom payment. After having worked that day, Hauptmann left and did not return and never gave any reason; he resigned of his own accord. The witness insisted that Hauptmann had not been discharged, and emphatically stated he had not worked at the Majestic Apartments at any time between March 1st, 1932, and March 21st; he maintained that Hauptmann had begun to work on March 21st, 1932.

In his cross-examination, Reilly, being suspicious of other entries in the record submitted by the witness, was allowed to take samples of Morton's handwriting while he was on the stand. There was a discussion of Hauptmann's wages and an argument as to whether he had been paid by the day or month.

CECILE M. BARR

Mrs. Cecile M. Barr, cashier at the Loew's Sheridan Square Theater, saw Hauptmann on November 26th, 1933, at which time he purchased a theater ticket. She insisted that her identification was accurate. In giving the circumstances which had caused her to remember, she stated that on November 26th, 1933, at about 9:30 P.M. she was not busy. Hauptmann appeared at the window and practically threw a five-dollar bill at her, folded in an unusual way, once lengthwise and twice in the width, so that the denomination could not be seen until the bill was opened up. She demonstrated to the jury how it had been folded. She insisted that the time and setting had been such as to allow her to study the features of the man who presented the bill at her window that night; she was very positive it was Hauptmann. That bill was wrapped with the rest of the money for deposit, and she gave no further thought to the matter until questioned the next day by Lieutenant Finn and other detectives.

Reilly cross-examined and was very much interested in the fact that Mrs. Barr lived in New Jersey although she worked in New York, and that she had no New York address. Defense counsel asked her vague questions as to what restaurant she patronized,

and when he mentioned a specific one, she denied that she was in the habit of frequenting that place. It appeared from Reilly's questions that he had visited the theater during the past three weeks, but the witness did not remember having seen him at the window.

Reilly then asked Mr. Rao, a clerk in his office, to stand up. He asked her if she had seen Rao at her window during the past three weeks. She answered in the negative. With an attitude as though Rao had been there and she had failed to identify him, but not stating it directly, Reilly said, "That is all, Mr. Rao."

Defense counsel then asked her who had discussed the case with her in the past few weeks. She stated that some customers had, but that in the past month or two no reporters had done so. There were questions about the conditions in the box office and about the weather on the night she saw Hauptmann. She insisted there had been sufficient illumination. Although it had been a cold night, the man she identified as Hauptmann did not wear an overcoat. The witness denied questions by Reilly inferring that she had stated at one time that she had been unable to identify the man who had given her the bill, that her testimony would be a good advertisement for the theater, and that the publicity would secure her a position as a Hollywood actress.

WILLIAM M. CODY

William M. Cody testified about the discovery of the five-dollar ransom bill deposited at the Corn Exchange Bank by the Loew's Sheridan Square Theater. As he counted the money, Cody noticed the serial number and reported it to his superiors, who turned it over to Lieutenant Finn.

There was a short cross-examination with no attempt to challenge the witness' testimony.

LEWIS J. BORNMANN

On January 22nd, Detective Lewis J. Bornmann was recalled and examined by Wilentz. He identified a chisel as one he had found near the ladder early in the morning following the night of the crime. Over objection by defense counsel, the chisel was admitted in evidence.

Soon after, the long-awaited discussion between defense and prosecution pertaining to the legality of the admission in evidence of the kidnap ladder took place. Detective Bornmann had stated that the ladder exhibited to him was the identical one he had found. There was lengthy discussion of the different parts of the ladder, the markings, the coloring, the nails and saw-cuts. All changes in the ladder were accounted for by the witness and a detailed account was given as to who had possessed it from March 1st to the present.

When Wilentz casually attempted to introduce the ladder in evidence, Pope indulged in his usual loquacity. In part, he stated that not all the people who had had custody of the ladder had been called; that such a piece of evidence could be admitted only provided the evidence or exhibit was in the same condition as it was at the time of its discovery; each individual who had had the ladder in his possession would have to be called to prove custody and what had been done with it; the testimony, thus far, had in no way indicated it had ever been in the defendant's possession or that the defendant had at any time had anything to do with its construction.

The discussion went back and forth between Pope and Wilentz. The Attorney General reviewed the history of the ladder since its discovery and explained that the changes on it had not been made for misleading purposes. The Court at one time called Pope's attention to the fact that Hochmuth had testified he had seen the defendant with the ladder. The Court finally allowed the ladder in evidence. Bornmann then identified a dowel pin which was admitted in evidence despite Pope's strenuous objections.

The detective was then cross-examined by Pope. All of the questions related to the custody of the ladder, dates and changes.

THOMAS H. SISK

Thomas H. Sisk was then recalled for cross-examination by Reilly. He insisted that coöperation had prevailed among the police authorities. Reilly snappily questioned him as to whether the box which had contained the ransom money had ever been located.

The answer was in the negative. Sisk admitted that at one time Condon had been called upon to imitate "John's" voice and that it had been recorded; the record, however, was in Washington. Asked whether he could obtain it for the defense, the witness said it would take a couple of days. Reilly, in a question, included the positive statement that a plaster cast of the footprint of the man in the cemetery who had received the ransom money had been taken by Condon's son-in-law. The witness, evasive and uncoöperative, stated that he had not been working on the case then, but defense counsel got Sisk to state that the record of it was in his New York City office. When Sisk first entered the case in 1933 he read all the records of previous investigations. He explained that the record spoke of the plaster cast of a footprint of a man, perhaps fifteen feet away from the place where "John" stood in the cemetery; it was near a freshly dug grave and had not been associated with "John."

As soon as the witness admitted that he knew details about this footprint and that a report was on file in his office, Reilly asked for it. Sisk, continuing in his uncoöperative attitude, stated that under Federal regulations he was unable to produce his records without permission from the United States Attorney General. Reilly angrily declared he would get permission from the proper authorities and would close his examination until the records were produced. Wilentz now pointed out that he would soon be finished with the presentation of the State's case and had no intention of detaining Sisk. Reilly subtly implied that Sisk's evidence was helpful to the defense and that he, therefore, might call him as a defense witness.

JAMES J. FINN

Lieutenant James J. Finn was briefly recalled, and identified a five-dollar bill given him by William Cody, the Corn Exchange Bank teller, which had been deposited by Loew's Sheridan Square Theater.

ELSIE WHATELEY

Mrs. Elsie Whateley was recalled and mainly corroborated details relating to the discovery of the thumbguard. She stated that under the window through which the kidnaper entered the nursery, there was a suitcase; she identified the suitcase and it was admitted in evidence.

Reilly cross-examined, making her review her previous testimony, then questioned her about the discovery of the thumbguard. His voice implied doubt of her truthfulness and her ability to remember. Her testimony, however, remained uncontradicted.

MILLARD WHITED

Millard Whited, examined by Wilentz, testified that he lived within a mile and a half of the Lindbergh estate and had been engaged in the timber business. After February 12th, 1932, he saw a man on two occasions in the vicinity of the Lindbergh estate, at one time within a half mile and another time within a mile; he identified the man as Bruno Richard Hauptmann.

Whited was aggressively cross-examined by Fisher, who seemed extremely doubtful of his character and memory. Fisher in reviewing his testimony at the extradition proceedings indicated that he now varied from a quarter to a half a mile in placing Hauptmann in relation to the Lindbergh estate. Whited testified that on the morning following the kidnaping, Colonel Lindbergh and police authorities had visited his home and asked about the presence of strangers in the locality. Fisher tried to indicate that Whited was not informed by Colonel Lindbergh of the purpose of the visit; and that since there had been a robbery a few days preceding the Colonel's visit, Whited was under the impression that he was to be examined for his knowledge about that robbery. To protect himself, therefore, he told an untruth about having seen a stranger in the locality.

Whited admitted that there had been a robbery and that some police officers had visited his home to discuss it. Colonel Lindbergh

had visited him after that, and he denied that his story of the strange man had been given to protect himself.

His testimony now varied from that in the Bronx in regard to the names of the police officers to whom he had reported the stranger's presence. Prior to his identification of Hauptmann in the Bronx, he had seen two photographs of him.

CHARLES B. ROSSITER

Charles B. Rossiter, examined by Wilentz, identified himself as an employee of the American Automobile Association. He testified that on the Saturday preceding the kidnaping, he was driving to Philadelphia. On Route 31, near the Princeton airport, at about 8 P.M. he saw a man standing behind an automobile. Thinking the man's automobile had broken down, he stopped to offer assistance. He walked over to the man and asked if he needed help. The man replied he did not. After about five to eight minutes, the witness proceeded on his way. After Hauptmann's arrest, Rossiter recognized him from newspaper pictures as the man he had seen on that occasion. He communicated with Colonel Schwarzkopf, was taken to see Hauptmann, and identified him.

On cross-examination, Reilly asked several questions to test Rossiter's memory. He was unable to recall many things, and at one time he surprised even Reilly by admitting that occasionally he had mistaken strangers for friends. But no matter how hard Reilly tried to prove his memory defective, Rossiter remained positive that the man he had seen was Bruno Richard Hauptmann.

MAX RAUCH

Max Rauch, who had rented the house to the Hauptmanns in 1931, was examined by Peacock. He insisted that when the house was rented, the floor of the attic was intact. He visited the attic about two weeks after Hauptmann's arrest and noticed that a strip of board about nine feet in length was missing. A photograph of the attic, illustrating the missing board, was exhibited to the witness and he identified it.

Pope cross-examined and tried to indicate that, as there had been some wiring done for electrical outlets, the board had been removed to aid the electricians. Rauch said he knew a little about lumber and was certain that the missing board was yellow pine, North Carolina pine flooring.

JOSEPH JENNINGS DORN

Joseph Jennings Dorn, examined by Peacock, identified himself as the owner of the lumber mill in McCormick, South Carolina, which, in 1931, had shipped wood to the firm of Halligan and McClelland in New York. A bill of lading was exhibited and he identified it. The shipment consisted of 2,263 feet of lumber some of which was "1 by 4."

Pope cross-examined Dorn, who was unable to state how many millions of feet of lumber were turned out in his State annually, nor did he know how many mills were engaged in the process of finishing South Carolina pine. A detailed discussion of the machinery used in a lumber mill and the methods employed, followed.

WILLIAM M. SCHULTER

William M. Schulter, a bookkeeper in the employ of Halligan and McClelland, testified that the carload of lumber shipped to them by Dorn's company had been sold to the National Lumber and Mill Work Company, 3541 White Plains Road, the Bronx.

DAVID HIRSCH

David Hirsch, part owner and secretary of the National Lumber and Mill Work Company, testified that his firm had bought the carload of lumber already referred to by previous witnesses. The witness emphatically declared, in answer to a question, "Yes, sir, I know Mr. Hauptmann."

Hirsch, using his records, stated that Hauptmann had worked for him occasionally in the latter part of 1931 and the early part of 1932, during which time he occasionally purchased lumber. Consulting his ledger, he said that on December 29th, 1931, Hauptmann had purchased $9.32 worth of lumber.

Pope cross-examined and immediately had him admit that many

other carpenters purchased lumber. Hirsch could not remember whether his company had in stock any South Carolina pine at the time the shipment of lumber from Dorn was received. When Pope finished, he made a strong plea to have the witness' testimony stricken from the record, as with the previous witness, since Hirsch had no independent knowledge that Hauptmann had bought wood from his company. All information came from his records. The Court overruled this motion.

LAWRENCE MILLER

Lawrence Miller, an employee of the National Lumber and Mill Work Company, who in 1932 was a yard man, testified that Arthur Koehler had visited the company in September, 1933, approximately a year before Hauptmann's arrest. He gave Koehler a sample of South Carolina pine, identified as "1 x 4's." He further testified that Koehler had visited the company in December, 1934, at which time he gave him another sample of the same lumber from the same bin from which the previous sample of lumber had come. This sample was exhibited to the witness and he identified it by his initials which he had placed on it at that time.

Pope cross-examined briefly and Miller testified that his company had no North Carolina pine in stock when the shipment came from Dorn's company.

In a short redirect examination the witness could not say whether any Lindbergh ransom money had appeared at his company.

FRANK A. KELLY

On January 23rd, State Trooper Frank A. Kelly was recalled for cross-examination and demonstrated his fingerprint method. Reilly had him review previous testimony about fingerprinting the Lindbergh nursery and about some of the work done on the ladder by Dr. Erastus M. Hudson. The witness evasively explained he had only seen Dr. Hudson demonstrate his process on the ladder rail, and indicated that Hudson had nothing to do with the entire ladder. Reilly indicated that Hudson had processed the entire ladder and obtained numerous fingerprints.

JOHN A. LYONS

Inspector John A. Lyons, of the New York City Police Department, next identified a piece of paper as writing paper which he had found in a desk in the living room of Hauptmann's home. Under cross-examination by Reilly, he insisted that when he found the paper there were a number of people in the room, but Mrs. Hauptmann was in another room. Reilly objected to the admission of this writing paper in evidence because of lack of proof that it was Hauptmann's exclusive property, but it was admitted.

LEWIS J. BORNMANN

Detective Lewis J. Bornmann was recalled and examined by Peacock. He testified that in a search of Hauptmann's home, he and three other policemen had examined the attic. A thorough search was made for money but none was found. He observed that a floor board was missing from the attic floor, and saw nail holes where the board had been nailed to the joists. The board which adjoined the vacant space was removed by a police carpenter and was now exhibited to the witness. Bornmann testified that on October 9th, 1934, he and Koehler inspected the attic. They had with them a rail of the kidnap ladder which had four holes in it, and when they placed it on the floor of the attic from which a board was missing, it was found that the nail holes coincided with the nail holes in the joists. These nail holes had been made by cut-nails and the cut-nails used in the ladder fitted into the holes.

When the ladder rail was placed on the floor, the grain of the intact board matched the grain of the rail. Bornmann identified a package of nails removed from the flooring.

Under cross-examination Pope had Bornmann repeat some of his direct testimony and then tried to get him to answer some technical questions about wood, but the witness said he was not an expert. Bornmann, who was always subject to attack by the defense and whose manner seemed to irritate defense counsel, stated that he had rented the Hauptmann home after Hauptmann moved out and had at no time refused the defense permission to inspect it.

He insisted that he had never received any request for such an inspection. He then assumed a coöperative attitude, and declared that the defense could inspect the premises if they now wished to do so.

CHARLES F. W. ENKLER

Charles F. W. Enkler, recalled for examination by Peacock, corroborated Bornmann's statements. Pope's cross-examination only revealed that the witness had not seen the rail taken from the kidnap ladder which had been brought to the Hauptmann home.

ANSELM CRAMER

Anselm Cramer was recalled, and corroborated previous testimony in regard to the experiment in the attic. A short cross-examination by Pope revealed nothing new except that an eight-penny nail would slip into a hole by finger pressure if the hole had been made by a ten-penny nail.

ARTHUR KOEHLER

Arthur Koehler was recalled and examined by Wilentz. He testified that he lived in Madison, Wisconsin, and worked there as chief of the United States Forest Products Laboratory. His laboratory was maintained by the Federal Government for the purpose of making tests and investigations of wood. He had been engaged in this profession for the past twenty-one years. Each year two or three thousand samples of wood were sent to the laboratory for examination. He had testified in court many times. He had had experience as a carpenter and had a working knowledge of a large assortment of the tools needed in that occupation. He had been consulted in the Lindbergh kidnaping case and on many occasions examined the ladder.

Wilentz directed his attention to the ladder rail. Koehler testified that in taking the ladder apart he had paid particular attention to that rail for the purpose of a comparison with wood in the Hauptmann attic. As a result of his comparison, he stated that four nail holes, visible in the rail taken from the ladder, coincided exactly

with four nail holes in the joists in Hauptmann's attic; the grain of the wood of the rail of the ladder corresponded with the grain of the wood of the board next to it on the attic floor.

Wilentz then asked for his opinion about some other wood which he exhibited. Pope jumped to his feet and aggressively objected.

Justice Trenchard, looking at him, inquired, "Do you say that he is not qualified as an expert on wood?"

Pope prepared for one of his lengthy objections, stating that in the defense's opinion, there was "no such animal known among men" as an expert on wood. He insisted it was not a science that had been recognized in courts, and could not be classified or compared to testimony by fingerprint experts, ballistic experts or handwriting experts. Pope was willing to accept the witness' testimony as an "experienced carpenter" but not as a wood expert.

The Court agreed that the term "wood expert" was very broad and that it would perhaps be advisable to limit it as far as the case was concerned. Justice Trenchard was interested in the basis of Pope's objection and asked: ". . . Do you object to his qualifying as an examiner of wood and to finding out the history of that wood? Do you object to that?"

Pope, with his characteristic smile, emphatically stated that the defense would object to the witness' expression of opinion. He repeated most of his previous objections and then added, ". . . This is no science." Seeking to reduce the term "wood expert" to an absurdity, he casually said, "This is just merely a man who has had a lot of experience in examining trees . . . and a few things like that. . . ."

Pope continued to object and the Court, as soon as he finished, ruled that the witness was qualified as an expert. Pope refused to accept the decision and asked permission to cross-examine the witness. Justice Trenchard smilingly agreed.

Wilentz stated that he had no objections to Pope's examination but he felt it should have been done earlier.

The Court, in an exceedingly pleasant manner, looked at Wilentz and effectively stated, "I don't want to stand on form, Mr. Attorney General, and I don't think you do."

Wilentz agreed, but before Pope started his cross-examination,

Wilentz asked that Pope's reference, there was "no such animal" as a wood expert, be stricken out as, "I am sure he didn't intend it."

Pope immediately withdrew his comment and apologetically explained that it was just a homely expression which implied no reflection.

With Pope's approval, Wilentz examined the witness in detail as to his qualifications. Koehler was graduated from the University of Michigan in 1911, where he studied forestry, and he received the degree of Master of Science in 1928 from the University of Wisconsin for postgraduate work in forest products. He was the author of *Properties and Uses of Wood* and numerous bulletins on wood for the United States Government. As the witness finished his enumeration of fifty-two of his publications, the titles of which contained the words "wood" or "forest," the Court interrupted the examination and asked Pope whether he still wanted to question the witness' qualifications. Reilly asked the Court if the defense could preserve its rights and have the Court express an opinion as to whether the witness was qualified. The Court then immediately ruled that he was qualified and the defense was granted an exception.

Wilentz then went back to a discussion of the ladder and asked whether there was any connection between the ladder rail which he showed to the witness and another piece of lumber taken from Hauptmann's attic. The witness replied that a careful study of the two pieces of wood allowed the definite conclusion that they had been one piece at one time.

Koehler now stepped down from the witness chair and gave the jury a demonstration. The atmosphere was that of a school room; the witness used very simple language. The jurors leaned over in their chairs, much interested in the lecture. In his demonstration, he used enlarged photographs of the two pieces of wood, thus illustrating the reasons for his conclusions. He personally had taken the left-hand rail of the top section of the ladder in which there were four cut-nail holes, and then had taken the cut-nails from Hauptmann's attic and inserted them into the holes in the rail; they fitted perfectly. Allowing the nails to remain in the holes, he placed the rail over the joists in the Hauptmann attic. The protruding nails from this rail fitted into the corresponding holes in the joists. This indicated to him that the rail had once been nailed down in the attic.

As he started to say, ". . . It would be inconceivable to think—" Pope interrupted, "That is argumentative . . ." He was overruled.

Koehler explained that because the four nail holes were a certain distance apart, it would not, in his opinion, be possible for another board somewhere to have had cut-nail holes spaced exactly like those in the joists. He reinforced his opinion by stating the nail holes were not equidistant, and were in different directions. These observations held for the nail holes both in the rail and in the joists. As further proof, he indicated that one of the nail holes had a marked slant and that the corresponding hole in the joist had the same slant. The Attorney General offered in evidence a photograph of the attic showing the two boards placed in position on the floor. Pope objected and indicated that the rail had been taken from the ladder to the Hauptmann home and placed in a position which the witness had seen fit; the witness had not taken the photograph. Koehler insisted the photograph had been taken at his direction. It was allowed in evidence.

Wilentz asked the witness why he thought the two pieces of wood originally had been one. Pope continued to fight every bit of this testimony, declaring heatedly that it was all speculation and the witness' guess was no better than the jury's. The Court directed the witness to answer.

Referring now to the two pieces of board on the attic floor, Koehler called attention to a gap of about an inch and a quarter between the two as they had been placed in what he thought to be the original position. He explained that the gap had resulted from a saw-cut through the wood. He elaborated further, discounting the gap, that the grain of the two pieces of board indicated definitely that they had been originally one piece. A large photograph illustrating this point was admitted in evidence. The witness then proceeded with his exposition on the grain, and his charts clearly illustrated his statements. He discussed the question of annual rings on both boards and demonstrated that they corresponded. Pope objected to all references to that missing piece of wood that had filled the gap. He insisted that if the witness were unable to account for the missing piece, all of the questions should be over-

ruled. The witness, due to his qualifications, was permitted by the Court to account for the missing piece as having been sawed away when the pieces of board had been separated.

The Attorney General pointed out that the rail board was not as wide as the attic board. The witness explained that both edges of the rail had been planed with a hand-plane, and from the markings he concluded that the plane had not been in very good condition, as it left little ridges. Wilentz, with dramatic gesture exhibiting a plane to the witness, asked if this were the one that had been used in planing the edges of the ladder rail. The answer was in the affirmative, and Wilentz in order to reinforce the importance of this testimony, asked if there were any doubts about it.

Koehler convincingly replied, "Not the least."

He went on to explain that there were a number of ridges on the planed surfaces. If one were to take a piece of wood and use the plane exhibited, similar ridges and spacing would appear. Koehler stated that it would be out of the question for any other plane to have made those same ridges.

The Attorney General tried to get the witness to demonstrate this contention to the jury. Pope strenuously objected to the demonstration because of the wood to be used. He said that the "Ponderosa Pine" was much softer than the North Carolina pine used in the construction of the ladder. The discussion continued and the witness stated that he did not have a piece of North Carolina pine.

As Koehler offered to make a suggestion, Pope insultingly replied, "We don't want any suggestions from the witness."

Wilentz eased the situation.

After the objections had been settled, the witness stated that the plane marks already described were on the rungs of the ladder made of Ponderosa pine, thus meeting Pope's objection. In referring to the ladder rungs, the witness went into detail, and Pope offered numerous objections. Wilentz was very much exasperated.

Justice Trenchard, looking at Pope, said, "Well, it seems rather irregular, why interrogate him every minute?"

Pope wished to continue with his objections unless the witness could prove that the piece of Ponderosa pine he was to use had come from the same pine forest or general locality from which the wood in the ladder had come. Koehler testified that the wood was

of the same type, similar in grain and approximately the same strength, although he did not know whether it had come from the same tree. The Court allowed the witness to demonstrate.

Koehler then received permission from Justice Trenchard to attach clamps to his bench. He took the sample piece of wood and placed a sheet of paper over the edge he was to plane. With a pencil he took an impression of the edge of the wood on the paper. He put this impression to one side, and using the plane obtained from Hauptmann's garage, he planed the surface of the wood. He took a second impression of the wood on a piece of paper and repeated a third on one of the rungs of the ladder. Exhibiting the three sheets of paper to the jury, he clearly demonstrated that the first impression made on his sample of wood did not show ridges similar to the other two impressions. When he compared the impressions of the edge he planed in the courtroom with that of the ladder rung, the two impressions were identical. Koehler insisted this experiment proved conclusively that the plane found in the Hauptmann garage had been used to plane the rung of the ladder.

After this demonstration, Wilentz offered in evidence some enlarged photographs of these impressions which Koehler had taken. Pope insisted that Koehler prove that the wood used in the demonstration had come from the same forest or section of the country from which the ladder rung had come. The Court overruled his objection. Wilentz met this objection, however, when he had the witness testify that the photographed wood was of the same type as the ladder rung and had come from the same section of the country where Ponderosa pine was grown and that the demonstration was, therefore, accurate. Wilentz then exhibited to the witness a piece of plane-marked wood which had come from Hauptmann's garage. Koehler testified that this piece of wood had been planed by the same hand-plane used on the ladder rungs.

The Attorney General exhibited a chisel to the witness, who stated that he had seen it before. He could not testify whether this chisel had been used in the construction of the ladder, but it was evident that a chisel of the same size, a three-quarter-inch one, had been used. Pope objected and stated that if the chisel had been found in Hauptmann's garage, it might be a circumstance, but in

view of the fact that it had been found some forty miles away, it was not proper testimony.

The Court met his statement with the reply, ". . . And it was found, was it not, under the southwest window of the nursery?"

Pope insisted it was an ordinary three-quarter-inch chisel which had been found somewhere on the Lindbergh estate.

The Court replied, "Where the ransom note was left, which has been traced to this defendant."

Pope snapped back in no uncertain terms, "We don't agree to that."

Justice Trenchard's response, now, though deliberately correct and objective, revealed perhaps his own opinion by implication. He replied, "I know you don't, but I am telling you what the evidence tends to show. Therefore I think that these pieces of circumstances must be given over to the jury to consider . . ."

Wilentz then asked about the size of the chisel used in the construction of the ladder, as though this question had not been asked before.

The witness answered, "A three-quarter-inch chisel."

With a tinge of the theatrical, Wilentz turned to his assistants and asked one of them to open the tool chest obtained from Hauptmann's garage. He asked Koehler, "Do you know what sizes of chisels make up a carpenter's chest of chisels?"

The witness replied, "As a rule a good carpenter's tool chest should contain a quarter-inch chisel, half-inch chisel, three-quarter-inch chisel, one-inch, and one-and-a-half, and possibly two-inch chisel." Wilentz then cleverly asked him to examine the chest for a three-quarter-inch chisel. After inspection, Koehler emphatically said he could find none.

He then demonstrated to the jury a number of impressions on the ladder, and taking the three-quarter-inch chisel, showed conclusively that its grooves matched the grooves on the ladder. He indicated that this did not prove these grooves had been made by the chisel in question; it was just definite proof that a three-quarter-inch chisel had been used. While demonstrating the chisel-grooves in the ladder, Wilentz and the witness stood at the railing of the jury box.

Wilentz was making most of the statements as to where the

chisel matched the grooves and kept on requesting the jurors, "Look right over here . . ." He requested them to bend forward and seemed to be carrying on a regular conversation, usurping Koehler's position.

Pope, from the defense table a few feet away, shouted at Wilentz, "Not too much conversation over there. Let him show it."

Wilentz, surprised and slightly embarrassed, apologetically stated, ". . . That is not really conversation, if your Honor please; that is just youthful enthusiasm . . ."

Everyone relaxed as he changed the trend of the examination and asked the witness when he had first come into the case. Koehler had made his first test in May, 1932. Although he had worked on it ever since then, he was not in the pay of the State of New Jersey. In November, 1933, ten months prior to Hauptmann's arrest, he had traced some of the wood in the ladder to the National Lumber and Mill Work Company in the Bronx. Asked how he had traced it, Koehler stated that the discovery was due to the plane marks which occurred on the lumber when it was originally planed at the mill; he visited the Dorn Lumber Company in South Carolina and found the plane which had made that mark on the ladder. He then traced forty-two shipments of lumber made by that company to various other lumber companies in the country, and went to all of these. When he got to the National Lumber and Mill Work Company, he found lumber planed by the mill plane of the Dorn Lumber Company. The mill plane had been defective and left a corresponding defect on the lumber. This defect was demonstrated.

Koehler then described in detail the methods of planing at a lumber company and clearly stated that there was nothing mysterious in his conclusions. It was a question of logic and knowledge of planes; he insisted that no other plane could have made that mark on the wood. The thoroughness of his investigation, which had preceded Hauptmann's arrest, amazed everyone. He had thoroughly canvassed all the plane marks from New York City to Alabama. He gave a little dissertation on how, after finding that only twenty-five firms had planes which could have been used, he finally, by an examination of the blades, reached the firm of Dorn, in McCormick, South Carolina. Photographs of the plane at the lumber company and the method of planing were used in his dem-

onstration. In 1933, because he held that the wood used in the ladder had been bought at the National Lumber and Mill Work Company, he directed a search for purchasers of lumber from that company.

As further proof that Hauptmann had made the ladder, the witness testified that the saw-marks which he exhibited to the jury on the ladder had been made by saws similar to those found in the Hauptmann garage. The witness had measured the width of the saw-cuts in the ladder and then, using the saws in the Hauptmann tool chest, found two which made cuts the same width as those made by the saw used in the construction of the ladder. Although Koehler dealt with thousandths of an inch, he clearly demonstrated his point. Wilentz then retraced, and brought the witness back to the testimony of the nail holes in the rail of the ladder and the nail holes in the joists, and went over most of the ground covered in the first part of the testimony.

On the morning of January 24th, Wilentz dramatically requested Justice Trenchard that the automobile in which Hauptmann was driving on the day of his arrest be admitted in evidence. There was strong objection from the defense, but a compromise was effected when a photograph of the automobile was accepted in evidence. Wilentz then continued with his examination of Koehler, who said that he had assembled the three sections of the ladder and had been able to fit them into the automobile.

Pope then took Koehler for a detailed cross-examination, securing from the witness some admissions which in no way affected his previous contentions. Koehler did not deviate from any of his direct testimony. In discussing the question of the three-quarter-inch chisel, Koehler admitted that any three-quarter-inch chisel could have made the grooves in the ladder, which was not a contradiction; he had so testified under direct examination. There were a number of questions in regard to how much weight the ladder could have sustained and under what conditions it could have broken, none of which, however, were settled. The thoroughness of Koehler's investigation was reinforced by his answer to a casual question put by Pope, whether he knew where some of the Douglas fir wood used in one part of the ladder had come from. Without

hesitation, the witness replied, "Long View, Washington and Bellingham, Washington." Koehler stated that he had not found any lumber similar to that in the ladder either in the lumber yard at Hopewell, or at the Epileptic Village near Skillman, New Jersey.

On redirect examination, to one of Wilentz' very pointed questions, the witness indicated also that he had not found any wood at any orphanages similar to the wood found in the ladder.

There was more discussion as to the ability of the carpenter who had made the ladder, further questioning about the weight the ladder could have sustained and about the witness' previous testimony. Wilentz, since all had agreed that the ladder construction revealed poor workmanship, expressed the idea that this fact fitted in with the observation that the chest of tools found in Hauptmann's garage was not a "good carpenter's" set of tools.

Pope took the witness for re-cross-examination and if he had not been so interested in proving to Koehler that he, himself, was a qualified carpenter, he could have conducted his examination more effectively. After a few questions, Pope finished and Wilentz, suddenly, and with an air of finality, calmly announced, "The State rests."

The Case of the Defense

There was increased confusion in the courtroom. Newspaper men sent messages rapidly by boys who found difficulty in getting out of the courtroom because of the congestion. The Court addressed the spectators and censured them about the noise. In the midst of the intense quiet following the Court's reprimand, Rosecrans, of defense counsel, in an unemotional manner, addressed the Court:

Motion for Direction of Acquittal

"... My motion, first, is based on this ground, that there is no evidence that the crime alleged was committed in Hunterdon County and, therefore, under the evidence as presented, this Court is now without jurisdiction as the venue has been improperly laid

in Hunterdon County instead of the County of Mercer, the corpus delicti having been found in Mercer County. The legal presumption is that both the felonious blow was struck and the death occurred in Mercer County, as the evidence does not disclose any felonious striking in Hunterdon County, to bring the case under Section 59 of the Criminal Procedure Act—Section 59, of course, being the one that provides that indictment may be found in either one.

"I am mindful of the fact that a legal presumption such as the presumption of death occurring in Mercer County is a rebuttable presumption. But my contention is that there is no evidence here introduced by the State or on behalf of the State to overcome the presumption that death occurred in Mercer County.

"Next, that there is no evidence of a wilful, deliberate and premeditated murder having been committed in Hunterdon County.

"That is, nothing in the evidence to show that murder in these three essentials was committed in Hunterdon County . . .

"That of course comes back to the proposition that there was no proof of a felonious striking in Hunterdon County, that the presumption being the body found in Mercer County, that the felonious blow must have been stricken in Mercer County.

"Next, under the State's theory that death ensued from the committing or attempting to commit the crime of burglary, that there must be recourse to the common law for a definition of burglary, for the reason that we have no statute defining the crime of burglary as such, and there is no proof in this case to show that the defendant committed the common law crime of burglary.

"Now the argument as to that is, if the Court please, that we have a statute which some think defines burglary. According to my notion, that crime of burglary, that statutory crime, which some think defines burglary, is merely so defining burglary because of a caption in the statutes which has crept in through the compilation of the statutes.

"In looking back to the old statute, for instance, *Nixon's Digest*, we find no caption 'Burglary.' The common law definition of Burglary was that shortly entering by night into a mansion house with the intent to commit a felony. Under this statute, which bears

the caption 'Burglary,' we have many other things than the common law prescribed as defining the crime of burglary.

"Now, this crime of burglary, of course, is one of intention. At common law there was a breaking and entering with an intent to commit a felony. What felony in this case, if we go to the common law, as I contend we must? Stealing clothes of the child, the sleeping garment? That hasn't been proven here to be a common law felony, because a common law felony of stealing was to steal garments over the value of, I think, twelvepence; no proof of the value of those garments, so that there is no proof of a felony as to the stealing.

"Now as to the kidnaping, the only other theory, I think, that the State has produced or can rely upon, is that someone entered this house with intent to kidnap this child. Well, that again at common law was not a felony and the crime of kidnaping at common law, if it may be designated as such, was the taking of a person out of the country, out of the kingdom. If the State of New Jersey be considered the kingdom or the country, certainly the body was not taken out or there is no proof to show that the child was taken out of the country, out of this sovereign State of New Jersey; and if it be the United States as the country intended, of course there is no proof that it was taken out of the United States.

"So that on any consideration of the testimony of the State, I find no intent to commit a common law felony.

"I am mindful of, I think, one case which refers to robbery, the statutory crime of robbery, and intimates that we have a statutory crime of robbery. An examination of that case I don't think bears out the proposition that the Court of Errors and Appeals decided that we had a common law statute defining robbery. We have, for instance, a crime, defining arson as such; doing certain things is arson under our statute, changing in some particulars the common law. We have a crime of murder, defined as murder. The next general proposition is that there is no evidence in this case from which a jury could infer that the crime of burglary was either committed or attempted to be committed in that certain essential elements of burglary are lacking, as there is no evidence of a breaking, no evidence of an entry, and no evidence from which the jury could infer an intent to commit any felony, no evi-

dence of an offensive battery or touching even if it is presumed for the purpose of this argument that we have a statutory definition of burglary.

"The window was closed before and after the child was taken from the nursery according to the State's case.

"That, of course, at common law I don't conceive to be evidence of a breaking of that window. The window was in the same position before and after.

"And there is no evidence that there was an intent to commit a felony, as I have referred to before.

"Next, that the evidence conclusively shows that the burglary, if any, was committed, was complete in Hunterdon County, before any alleged blow or striking, which must be presumed to have been committed in Mercer County where the body was found, as burglary is a crime of intention, and therefore death did not ensue from the burglary but was a separate crime . . .

"A person breaks and enters a house with intent to commit a felony. When that intention is in the mind of the defendant, when he breaks and enters the mansion house with the intent to commit this felony, he certainly has completed the crime there.

"We can go a step further, of course. If he had intent to steal goods of the value of over twelvepence, he takes those goods out and if he were apprehended at that point and followed, that would, of course, be part of the res gestae, that is, of course, if he turned around and shot someone at that point.

"But, in this case, the case is barren of any evidence of flight, there is no evidence that this defendant was, or any person entering that house was, apprehended in entering or leaving the house. That body might well have been taken over to New York State, or anywhere else, and brought back a month or so later to the point where it was found.

"So, I contend that since this crime is one of intention and the Court of Errors and Appeals never having passed upon when the crime is complete, only having passed upon the question of robbery, that the death did not ensue from the burglary, because it was complete under the evidence here.

"If, for instance, by breaking and entering a window be broken

and a part of the glass should fall over and sever an artery of a person or of this child, that, I would say, would be ensuing from the burglary or the breaking and entering . . .

"Next, upon the State's theory that death ensued from the committing or attempting to commit burglary: Such crime of burglary is the necessary basic element of the crime of murder, and since the record and evidence conclusively show that the burglary, if any, was committed more than two years before the finding of this defendant, the defendant cannot be put to trial to rebut a burglary barred by Section 152 of the Criminal Procedure Act, setting forth the limitation of prosecution . . .

"Next, that there is no sufficient proof that the defendant was at the scene of the crime upon the night in question, as the evidence of identification is too remote in point of time and distance from the situs. That the evidence as to the defendant's handwriting being used in the original ransom note left in the nursery is not sufficient upon which a jury could predicate the fact that the defendant was actually present in the room. And that the defendant's possession of a part of the ransom money, the building of the ladder, the writing of the ransom notes and the other alleged acts in the State of New York is not sufficient from which a jury can infer the presence of the defendant in Hunterdon County upon the night in question.

"Now, of course, in a case of circumstantial evidence only those matters from which the jury is entitled to draw reasonable inferences are to be submitted. I think that under the evidence that is presented here, the State has not brought this defendant near enough to the night in question when, as they say, there was a breaking and entering of this house.

"The nearest that I can remember is an elderly gentleman who testified he saw the defendant upon the morning of the crime in question; others placed him still more remotely in point of time.

"And as to the distance that was cited I think the old gentleman was the one who placed him on that morning somewhere within a mile or two of the mansion house of Colonel Lindbergh."

The Court—"Near the gate house; near the gate house, I think it was."

Rosecrans—"Near the gate house. Now, as to this last proposition that all of the proof of the ransom money, the building of the ladder, the writing of the note and other matters which took place in New York State, I contend that in order to prove their case the State, of course, must, on their theory that this defendant is the only one engaged in this crime, place him at that house on that night; they must prove an actual presence, no constructive presence enters into the thing . . ."

* * *

Justice Trenchard addressed Wilentz: "Does the Attorney General care to be heard?"

The Attorney General in his response to Rosecrans, partially delivered a summation of the case, with some degree of emotion, which must surely have helped a listener to crystallize the testimony thus far.

The Court, in closing this long discussion between defense and prosecution, tersely ruled, "The motion for direction of acquittal will be denied."

BRUNO RICHARD HAUPTMANN

As Reilly arose and surveyed the courtroom before announcing, "Bruno Richard Hauptmann, take the stand," an awesome expectancy hushed the assemblage. This tense silence was quickly broken by the movements of spectators who wished a better view of the defendant and the rustling of papers by reporters. Hauptmann, hands resting on the arm of his chair, sprang to his feet; with very quick, long, light steps, smiling slightly and somewhat flushed, he walked to the witness chair. Standing erect, he was sworn in, then sat down, crossed his legs, folded his arms and signified his readiness. A guard stood behind him.[1]

Wilentz addressed the Court: "If your Honor please, may it appear on the record with the consent of the defense that the guard

[1] Although there are numerous reasons for having a guard behind the prisoner, the thought is evoked unconsciously in the observer that the defendant suspected of a crime is not innocent; that he is a person who is dangerous and must be guarded; that he is guilty of the crime. These thoughts persist despite the fact that, according to our law, the defendant is innocent until proved guilty.

standing in back of the witness is there by consent of both parties?" The Court agreed.

As the courtroom regained its quiet, Reilly propounded the usual routine questions and the defendant answered directly and tersely with a marked German accent. He testified that he was born in Saxony, Germany, on November 26th, 1899, and attended the equivalent of our public school for eight years, after which, for a period of two to three years, he attended a trade school. At this school he learned about carpentry and machinery. At the age of fourteen he began to work in his native town of Kamenz as a carpenter's helper, at a salary of three or four marks a week and maintenance, and continued to work as a carpenter for approximately three and a half years until called to war. He was slightly wounded and gassed; he mentioned that softly, so Reilly repeated the question and the witness nodded his head.

Wilentz would not accept the nod as a reply and asked defense counsel, "Did he say 'yes'?"

Before Reilly could answer, the witness hurriedly replied, "Yes."

Hauptmann was discharged around Christmas of 1918. A month after the Armistice the defendant returned home and was unable to find employment.

In the spring of 1919 he was convicted for some offense. Reilly, standing abreast of the last juror, forced Hauptmann to speak so that he could be heard, for, as they started to talk of his convictions, Hauptmann spoke in almost inaudible tones. He was sentenced and served time in Beuthen. Hauptmann revealed his ease, when, after naming the town, he slowly spelled out the name. In 1923 he was admitted to parole.

In the summer of that year, he attempted to enter the United States as a stowaway. At first, he said 1930, but then corrected it to 1923.[2] Upon his arrival, he was taken to Ellis Island and returned to Germany. A few months after deportation he again attempted to enter the United States and was again deported. Approximately two months after his second deportation, he succeeded in entering

[2] The forgetting of dates, events, names, etc., is very often due to an association either directly or indirectly with painful or disagreeable experiences. His inability to recall such an important event as his entry into the United States may be interpreted as an attempt on the part of the unconscious to deny the consciousness of a date or event which in some way was associated with painful memories.

as a stowaway.[3] He obtained employment in New York City as a dishwasher at sixteen dollars a week, in some restaurant in the lower end of Manhattan, for a month and a half. He lived with a family by the name of Aldinger, but could not give the exact address; he thought it was around Ninety-sixth Street and Amsterdam Avenue, Manhattan. Reilly implied this was a German neighborhood.

Hauptmann replied, "Oh, no, I don't say that."

Reilly maintained it was a part of Yorkville but the witness insisted it was not.

After having worked as a dishwasher, he obtained a mechanic's position. Then he secured employment in a dyeing establishment, followed by work as a machinist. Eventually he got work as a carpenter at eight dollars a day, which he held for about two months. The defendant met his wife in 1924.

Through an advertisement, in October, 1924, he obtained a position as a carpenter in Lakewood, New Jersey, which ended on Christmas Day of that year. His salary was approximately fifty dollars a week. Of that sum, he spent not more than twelve dollars a week.

Hauptmann explained, "I opened right in the beginning a bank account . . . must be around the end of '20 or '23."

In 1925 he worked as a carpenter and, being a member of the Union, obtained $10.50 a day. In the Bronx he did not receive union wages, but despite that, saved money each week. On October 10th, 1924, he married Miss Anna Schoeffler.

* * *

After this reply, Reilly addressed the Court and requested the Attorney General's permission to call some other witnesses and suspend Hauptmann's direct examination until after the others had testified.[4]

[3] The persistency exhibited in his attempts to enter the United States and the repetition of the act at short intervals reveals a compulsive drive which did not permit the thought of failure. His determination grew in the face of resistance.

[4] This irregularity caused surprise and gave rise to many rumors, the most persistent of which was that Reilly intended to call the two following witnesses before the defendant, but as this would have delayed Hauptmann's examination until late afternoon, the evening newspapers would not have been able to print any of his

Wilentz replied, "May it appear that by agreement at the request of Mr. Reilly, in order to take care of two witnesses from New York, this witness steps down and will be recalled immediately after. . . ." Then looking at Reilly, he inquired, "Is that correct?"

The defendant, very much at ease, smilingly left the witness chair with rapid strides, and accompanied by the guard, returned to his seat.[5]

CHRISTIAN FREDERICKSEN

Christian Fredericksen was called and was very nervous as he sat in the witness chair. His discomfort was apparent to Reilly who, before starting his examination, reassured him and told him to relax. Fredericksen testified that he lived in the Bronx and was a baker. In 1932 he had had a bakery at 3815 Dyre Avenue, the Bronx. Attached to it was a lunchroom and there, in 1929, Mrs. Hauptmann started to work as counter-girl and waitress.

During 1932, the arrangements in the store were such that Fredericksen spent most of his time in the bakery and his wife took care of the customers in the store assisted by Mrs. Hauptmann. On Tuesday and Friday nights, his wife was usually off duty, and on those nights Mrs. Hauptmann worked over-time. In February and March, 1932, it was usual for Hauptmann to escort his wife to

testimony. Reilly was supposed to have given the evening newspapers a "story." Reporters frequently discussed whether the evening newspapers were sharing the day's news equally with the morning newspapers. One rumor had it that an evening newspaper had made arrangements for a "scoop" on the first part of the Hauptmann testimony, that the answers and questions had been printed and ready for release and that Reilly, having agreed to this procedure, had to manipulate Hauptmann's appearance in accordance with that arrangement.

[5] The examination was conducted in such a way that Hauptmann could answer either in the negative or affirmative or with minimum elaboration. Occasionally he answered without any marked trace of German accent. He seemed at ease during most of this period. When his prison record was referred to, his answers were direct and given without any hesitation. There was, however, marked evidence of physical discomfort in his holding on with his hands to the side of the chair, or folding them across his chest, and in the shifting of his right leg over the left and left over the right. Each time his legs were crossed, tension was specially noticeable in the position of his feet. Sometimes he suspended the foot when the legs were crossed and moved it up and down. The questions about his entry into the United States were answered honestly but his facial expression indicated pride in his achievement. This expression was also evident each time Reilly asked him about his tendency to be thrifty, to have money in the bank and to live on a minimum sum.

work each morning a little before 7 A.M. and to call for her when she had to work late. The examination went along very rapidly. Each time the witness gave his answer, Reilly for greater emphasis would repeat it. Fredericksen positively stated that he knew March 1st, 1932, had been a Tuesday.

Wilentz objected strongly when the defense counsel tried to elicit from the witness whether Hauptmann had taken Mrs. Hauptmann home the night of March 1st, 1932. The legality of the question was discussed by counsel and Court. Reilly finally asked the witness for his recollection of the night of March 1st, 1932.

Fredericksen replied that Bruno usually called for her, therefore he must have been there that night too. He voluntarily added, "But I can't swear to it."

This declaration startled the courtroom and seemed to negate the value of his testimony.

The Attorney General declared, "I move that be stricken out." Reilly started to argue; Wilentz interrupted and indicated that he had changed his mind and would withdraw the motion.

Fredericksen testified that Mrs. Hauptmann had worked continuously from June, 1929, until June 22nd, 1932, when she left for Europe. Reilly made Fredericksen emphatically repeat that he kept his shop open every night until nine or ten o'clock.

In a detailed cross-examination, Wilentz discussed the bakery routine and the witness' declarations to police authorities after Hauptmann's arrest. The Attorney General's attack was scattered in his attempt to force the witness on to definite ground. Fredericksen, aware of Hauptmann's usual practice of visiting the bakery on Tuesday evenings, relied solely on that awareness to defend his position.

Wilentz again referred to the evening of March 1st, 1932, and summed up that provocative situation by asking, "So you don't know whether he was there at all?"

The witness replied, "Not positive sure; I can't swear to it."

KATIE FREDERICKSEN

Mrs. Katie Fredericksen, wife of the previous witness, was called for the defense and corroborated all of the preceding testimony. Her answers were a shade more certain than her husband's and undoubtedly created the impression of honesty. She remembered Tuesday, March 1st, 1932, because she had been out of the bakery that day; she left at perhaps one o'clock in the afternoon and Mrs. Hauptmann remained on duty.

Under cross-examination by Wilentz she indicated she had not usually seen Hauptmann bring his wife to the store in the morning because they arrived before she did. Wilentz was persistent in his determination to discover how the witness could have known whether Mrs. Hauptmann was on duty if she left at one o'clock in the afternoon. Mrs. Fredericksen maintained that she would have been informed the next morning if Mrs. Hauptmann had not taken her place.

She said, "Well, if she wasn't there I would be there." She did not actually see Mrs. Hauptmann at the bakery that night, however.

Reilly followed Wilentz' path in his redirect examination and got her to say again that she would have been told by her husband if Mrs. Hauptmann had not taken her place in the store. Asked if she could remember having gone to Hauptmann's home one evening when someone was about to leave for Europe, she recalled the evening of November 28th, 1933, at which time Hauptmann lived on Two Hundred and Twenty-second Street. A Mr. Fisch was going to Europe; it was a Monday night. Mrs. Fredericksen now stated that it might have been either the 27th or 28th of November. Fisch was there on her arrival, and they left together. The witness, who was driving her own automobile, took him to a subway station about ten or half-past ten. She identified a photograph of Fisch, which was admitted in evidence. Reilly asked whether she saw him with money that evening.

An argument about the legality of the question followed but

the Court allowed it, provided that Reilly would show its relevancy. Mrs. Fredericksen *had* noticed money. Reilly asked if she were familiar with money, "greenbacks or paper money." She had not been able to tell the color of the bills, because she and Fisch were driving. Despite Wilentz' objections, Reilly pressed this subject and she repeated that she had been unable to tell the color of the bills.

BRUNO RICHARD HAUPTMANN

Reilly then recalled Hauptmann. Previous testimony was repeated, and the defendant said that with friends, during 1928 and 1929, on Saturdays and Sundays, he had built three houses and increased his income by "approximate $1,000." "Approximate" was perhaps the first polysyllabic word he used. Some of that money he had put in the bank.

Reilly inquired, "Did you keep some of the money in the house?"

The witness decisively answered, "Yes, always." With a note of finality, he proudly stated, "That is a habit I have."

At the end of 1929, Hauptmann had had perhaps $3,500 in cash, saved from his wages, in his home. His wife had worked all the time except for the two occasions when she went to "Jurope."

Wilentz asked Reilly to wait, and declared, ". . . He said 'Jurope,' didn't he?"

Reilly snapped back, "Europe."

The witness appeared surprised at his mispronunciation. He then testified his wife went to Europe for the first time in the summer of 1928 and for the second time in 1932.

Reilly asked if that were the year she had taken Mrs. Altschuler's child. Hauptmann, listening intently to the questions and weighing each answer, corrected Reilly and said that she had taken Mrs. Achenbach's child in 1928.

Reilly, referring to July, 1931, asked, "You decided to go and take a trip to California; is that right?"

The witness replied, "Well, it was decided eight years ago already." Asked how much cash money he had had just before his departure for California in 1931, the witness inquired, "You mean by cash all the money in my possession?"

Reilly replied, "In the house; in the house, yes." The defendant answered, "Oh, in the house. There was approximate a little bit over $4,000." He also had perhaps seven hundred dollars in the bank.

With his wife and Kloppenburg, whom he had met in 1929, Hauptmann left for California. The trip had lasted perhaps three months, and on his return he brought some souvenirs.

Asked if he had brought back some baby alligators, he looked surprised as he snapped back, "No."

He remembered having brought some bales of cotton and shown them to Mrs. Achenbach. After his trip he was able to get some small carpentry jobs.

Reilly inquired, "Now, in the following year, or rather, in March, 1931, did you buy a Dodge four-door sedan?"

Hauptmann, slightly annoyed, asked, "Which year do you mean?"

Reilly was interested in the automobile purchased in 1931. Hauptmann then replied that it was a new automobile, though a 1930 model, for which he paid $725 in cash.

The examination now took another trend, and Hauptmann testified that he had started to frequent Hunters Island in 1928. The defendant said his wife had gone to Germany for the second time for her mother's seventieth birthday, "It was the only reason."

In Fredericksen's bakery, in February, 1932, he met a man who worked in an employment agency on Sixth Avenue, New York City, and he went to this agency, secured a position and paid a ten-dollar fee. He went to work at the Majestic Apartments on February 27th. On February 29th, a Monday, he sharpened his tools, took them to the Majestic Apartments and left them in the carpenter's shop. On March 1st, eight o'clock in the morning, he went there and waited to see the superintendent.

Hauptmann explained, ". . . I got to wait a little while, about a half hour. Then he said he couldn't put me to work and I got to come back on the 15th of February, because he said he only hires men on the first and on the fifteenth."

Reilly asked, "Now do you mean the 15th of February or the 15th of March?"

The witness, his face flushed, replied, "The 15th of March, I mean. Excuse me."

During that interval, he attempted unsuccessfully to obtain employment. On March 15th, he started to work at the Majestic Apartments and left on April 2nd. On that date, Saturday, he went to work at about seven o'clock in the morning, lunched at twelve o'clock, started to work again at one o'clock and continued until five. His home was about eight miles away. The witness' attention was now called to the testimony of the time-keeper who testified that he had not worked on April 2nd. Hauptmann was positive that he had worked on that date and had been paid for it. According to the time-keeper's records, he had resigned on Monday, April 4th. Hauptmann stated that he had resigned on Saturday and gone down on Monday for his pay check but had been told to wait until the fifteenth. The defendant explained that he was to have received one hundred dollars a month, and as he had got only eighty dollars, he gave up the job and was paid on April 15th. On April 2nd, at five o'clock, he took the subway and arrived home at about six o'clock.

Kloppenburg visited him at about seven o'clock. The witness remembered the evening because it was the first Saturday of the month, the usual "music evening." On the first Saturday of each month he and Kloppenburg usually spent the evening singing German and American songs, Kloppenburg at the guitar and he at the mandolin. They usually played until about eleven or twelve o'clock. The witness emphatically said that on the evening of April 2nd, 1932, he did not leave home.

On January 25th, Hauptmann resumed the stand, walking confidently to the chair. After he had made himself very comfortable, Reilly started his examination. Some of the jurors observed him carefully. The majority of them, however, did not watch or even look at him as the examination began—in marked contrast to the spectators, a number of whom changed their positions in order to get a better view of the prisoner.

The witness' first answers were given softly, and Reilly requested him to speak a little louder. Hauptmann stated that he had lived for about two years in his last residence and had had nothing to do with its construction.

Reilly suddenly shifted his questions, and the witness testified that when he had married, his wife had a bank account in the Central Savings Bank, which she continued to use.

Not holding to any one subject, Reilly now asked about the defendant's friend, Diebig. The winter following his marriage, he bought a lunchroom from Diebig for nine hundred dollars. Six weeks later he sold it at a profit of four hundred dollars. Asked to give the total of his wealth at the end of 1929, he stated that it was approximately $9,000. At about that time he started to buy stocks in Wall Street and continued to do so until his arrest.

Hauptmann first met Isidor Fisch early in March or April, 1932, at Hunters Island. The meeting was casual, and shortly thereafter Fisch suggested that they go into Wall Street together. Although the witness definitely stated that he met Fisch in 1932, Reilly asked if it had been in 1929, 1930 or 1931. The witness maintained it had been in 1932. He claimed that Fisch gave him money to buy stock for the first time in August, 1932. Fisch was also in the fur business, and the two entered into a partnership in May, 1932, in which Fisch took care of the fur business; Hauptmann, the stocks. He gave Fisch six hundred dollars. The defendant could not say how much money was made, but he received small and large sums.

Hauptmann testified that he met a Miss Haufert [6] with Mr. and Mrs. Henckle; Henckle was Fisch's friend. Fisch lived in the same house as the Henckles, and Hauptmann occasionally visited them. Fisch left for Europe in December, 1933, and never returned. The night before his departure, he visited the defendant's home. Mrs. Fredericksen and Mrs. Hauptmann were also there. Fisch left nothing in his care that night, but had previously left two suitcases, four hundred Hudson seal skins and a little box. Reilly had to elicit each item by separate questions. These skins had been part of their business and were in Hauptmann's possession when he was arrested. The box had been a shoe box, made of "cardon." Reilly corrected it to "carton, cardboard" and the witness agreed. Asked to give the circumstances under which the box was left, and the conversation about it, the witness replied:

[6] Reilly did not identify Miss Haufert, but he may have made an error and referred to Louise Helfert, supposedly Fisch's bookkeeper.

Well, of Mr. Fisch request it was he was throwing a party when he left for Chermany, it was at his request in our house; we invited a couple of friends and about nine o'clock or a short while before nine o'clock, Fisch came out and got a little bundle under his arm. I answered the doorbell, my wife was in the baby's room. He came out and we went in the kitchen and he said, "I leave it, I leave it something, if you don't mine, keep care of it and put it in a tight place." I didn't ask what is in it, he only said that is paper in it. I thought maybe they are—

The witness was talking rapidly. As he came to his last words, Wilentz interrupted, but he ignored him and finished, "they are bills."

Wilentz objected that this was the witness' opinion, and Reilly instructed Hauptmann to tell what he did and not what he thought. The witness stated that he had put the box on the upper shelf in a broom closet, where it remained undisturbed until the middle of August, 1934.

Asked what caused him to disturb it, he replied:

I was looking for—it was Sunday, it was nasty weather outside—was looking for a broom. I took the broom. The broom is on the left side in the closet. And when I took the broom I must hit the box with the broom handle, and I looked up, and that way I saw that it is money. I damaged the box.

Describing the closet, he said there was a ventilation pipe which leaked when it rained; thus the box and the money, as well as the broom closet, had got wet. The defendant then said he had taken the box and removed it to the garage.

To the question. "What money did you see in that box?" he answered, "Only gold certificates." He did not count the money.

There were a few other questions. Then, pointing to a map of the Lindbergh estate, as of March 1st, 1932, Reilly suddenly inquired if Hauptmann had ever been in Hopewell. There was a decisive negative reply; he also denied having been on the grounds of the Lindbergh estate on March 1st, 1932. He was very flushed, and appeared eager to answer.

Reilly then asked, "On the night of March 1st, 1932, did you enter the nursery of Colonel Lindbergh—"

Before he could finish, the witness snapped back, "I did not."

Reilly continued, ". . . and take from that nursery Charles Lindbergh, Jr.?"

Again the answer, "I did not."

Asked whether he had left a note on the window seat of Colonel Lindbergh's nursery, he answered, "Well, I wasn't there at all."

Hauptmann declared he had never seen the baby. These answers were given directly and unhesitatingly. Hauptmann was then shown one of the ransom notes, and he testified that the first time he ever saw that note was in the Bronx courtroom. He had not written it, and he reinforced his previous statement that he had not left it in the Lindbergh nursery.

There were a number of questions regarding the witness' activities on March 1st, 1932. That day he awakened at six in the morning and drove his wife to the bakery where she had to be on duty at seven o'clock. He did not enter the bakery. He returned home, put his automobile in the garage and walked to the White Plains Avenue subway station. At the Majestic Apartments, he went to the carpenter's shop and had a chat with the foreman, who told him to see the superintendent. He could not give the name of the foreman. Since the superintendent could not find a job for him, he left his tools and returned to the employment agency to secure the return of his original ten-dollar fee. He was unable to obtain his money but was told to return the next day. Around five o'clock he reached home; no one was there. He returned to the bakery at about seven o'clock. He took the baker's police dog for a walk after his supper. On his return, he passed a gasoline station where he met a gentleman who inquired about the dog. At about eight or half-past, he returned and, a little after nine, he and his wife left. They drove home, put the automobile in the garage and went to bed. To emphasize the point, Reilly again asked if he was in Hopewell on the night of March 1st, 1932. Once again defense counsel was able to get into the record the witness' statement that he was not in Hopewell on the night of the crime.

On March 2nd, 1932, Hauptmann got up at six o'clock in the

morning, took his wife to the bakery, brought the automobile back to the garage and proceeded downtown by subway.

Hauptmann said, ". . . I read the paper and is the first time I read about the Lindbergh case."

The second ransom note was now shown to him and he was asked if he wrote and mailed it. He answered in the negative, adding that the first time he had seen this and other ransom notes was in the Bronx courtroom. The witness insisted he had never known that Colonel Lindbergh lived in Hopewell until he read of the kidnaping. On March 2nd, he went to the Majestic Apartments for his tool chest.

Shown the chest now, and asked if it were his, he replied, "Well, I suppose it is. It looks like it."

Reilly asked him to look at the chest and Hauptmann was allowed to leave the witness chair. He examined it and tersely replied, "That is my tool box."

When he had removed it from the Majestic Apartments, he put it in his garage. At about the time he was seeking employment at the Majestic Apartments, he was working one or two days a week, occasionally three, at the National Lumber and Mill Work Company.

Reilly now exhibited more ransom notes to the prisoner, who maintained that the handwriting was not his. He continued to deny having written them. He never mailed a letter to Colonel Breckinridge, nor did he have anyone mail it for him. He had not known Colonel Breckinridge, Condon or anyone named "Jafsie." The first time he saw Condon was in the New York police station.

Then Reilly, handling the baby's sleeping suit, asked, ". . . Did you take this sleeping suit off baby Lindbergh at any time?"

The witness deliberately replied, "I never saw the Lindbergh baby, alive or dead." Shown the thumbguard, he also denied having seen it or even knowing its purpose.

Further letters were shown him and he repeated briefly and directly his previous denials.

The next question pertained to Woodlawn Cemetery and the distance from his home to the main entrance of the cemetery.

Hauptmann answered, "Well, I don't know where the main entrance are of Woodlawn Cemetery."

Using a map and pointing to the gate in question, he maintained that he had not been at that gate or inside it on March 12th, 1932. Asked for independent recollections as to where he was on March 12th, Hauptmann thought he played cards. Smiling a little, he indicated that he could hardly remember but was certain he was not at the cemetery. The witness insisted that he had never been either to the frankfurter stand or the shack where Condon had a chat with "John."

The three sections of the ladder were placed against the courtroom wall, and Hauptmann seemed to be very much interested in the procedure. He was at ease, and seemed intrigued by the ladder, his facial expression seemingly indicating that he had never seen it until its appearance in court.

Reilly inquired, "Did you build the ladder?"

There was a smile on Hauptmann's face as he hesitated before replying, "I am a carpenter."

Laughter swept the courtroom and Reilly repeated the question.

With a note of finality, as though dismissing the whole subject, the witness replied, "Certainly not." Here Hauptmann left the witness chair, examined the ladder carefully, and without being interrogated remarked, "Looks like a music instrument." [7]

Asked for his opinion of the ladder, he stated that he did not know how a man could use it. He summed up the subject by saying, "I never transported a ladder in my car."

He insisted that he never took any wood from his attic to construct a ladder rail. He denied ownership of the chisel found on the Lindbergh estate. Reilly indicated that anyone could buy a chisel.

Hauptmann, showing a strong facetious streak, answered, "As long as you can pay for it, that's all right."

[7] Psychological studies of wit reveal that under various circumstances it serves different purposes. An essential function of wit is to aggressively attack, in the face of imposed circumstances, restrictions and verbal inhibitions, all of which prevent a direct manifestation of hostility. The audience laughs and the author of the wit obtains an indirect gratification from the temporary humbling of his enemy.

Hauptmann, aware of Wilentz' opinion of the importance of the ladder, sought to minimize its value as evidence and belittle his opponent.

A map of St. Raymond's Cemetery was shown him and the witness said that he had been near it only once, six years ago, when visiting a friend. He now changed his testimony as to what had happened on April 2nd. He left the house at about eleven o'clock to take Kloppenburg to the subway station.

There were numerous questions about some brokerage accounts and withdrawals of money and the opening of new bank accounts during 1928, 1929, 1931 and part of 1932. Hauptmann stated that photostatic copies of one of the exhibits of his bank and brokerage accounts had been given to him by the State and that he had spent the week-end refreshing his memory. Defense counsel again questioned him about the money taken from the wet shoe box. The witness stated that he first squeezed the water out of it and then put it in the garage. The box was practically falling apart. He put it in a pail, then noticed four bundles of money wrapped in thin brown paper. He then put it in a basket, which he placed on a shelf high upon the wall of the garage.

When Fisch left for Europe, the witness had $12,000 in stock on margin, $2,500 of which belonged to Fisch; the equity in the fur business had been $21,000. Prior to his departure, because of lack of cash, Fisch had wanted to sell some furs, but Hauptmann thought it inadvisable to sell then, and loaned Fisch $2,000. There was further discussion about transactions, and it was established that Fisch was dead at the time Hauptmann found the money. Again, Reilly discussed the box of money. The witness, after drying the money, spent two or three of the bills.

He remembered every November 26th because it was his birthday. He clearly remembered November 26th, 1933, a Sunday, and was certain that he was not at the Sheridan Square Theater. Although he knew where it was, he had never patronized it and therefore could not have passed a bill there.

As the afternoon session opened, the courtroom was crowded with an overflow of standees. The Court directed that the aisles be cleared, and after a few moments, although the most important witness was on the stand, there were fewer people in the courtroom than at any other time.

Reilly continued, and the witness testified that on November

26th, 1933, he celebrated his birthday with friends at his home. Defense counsel now opened an envelope containing photostatic copies of financial statements and there followed a long detailed discussion of the witness' stock transactions. Hauptmann carefully scrutinized the accounts and explained each item. He was well versed in stock market transactions, used a pencil in computing the calculations and was oblivious to his surroundings.

After the accounting, the witness' attention was called to Miss Alexander's testimony and he denied her statements, saying, "I never was in this railroad station. I just happened [8]—I know the railroad station, but I never was in there, had nothing to do with any railroad station." He denied ever having seen Miss Alexander.

Again there was discussion about financial matters and the witness indicated that he could testify better if he had a certain book which was now in the possession of the police.

Reilly asked, "Now, when you were taken to the New York City police station were you beaten by the police?"

As Wilentz objected, Hauptmann replied, "I was."

The Attorney General thought the question irrelevant, but Reilly insisted that he could connect it with the case. The Court agreed to its competency if it were brought up in connection with the voluntary aspect of the defendant's request writings.

Hauptmann was arrested on September 19th, 1934, and taken to the Greenwich Street police station. He was there all day before being asked to write; he was not beaten during that interval.

Reilly inquired, "Well now, when were you beaten?"

Wilentz, determined not to have that question admitted, faced an equally determined defense counsel, who wished its admission.

Noisy interruptions broke into the discussion at one point and the Court declared:

> It is the business of the officers to take those folks that are interrupting this trial out of the room. . . . I don't think there is any occasion for laughing at all. I want the officers to take those people out of the courtroom and, in flagrant cases, I want them brought up here in

[8] This phrase was uttered apparently independent of the preceding and following thought and therefore must be regarded as a separate answer conveying a different idea. Starting with the words, "I just happened—" there must of necessity follow speculation as to what words were repressed.

front of the desk and I am going to deal with them and I may mark them up quite some considerable, before I get through with them. I won't have this ribald stuff in this courtroom.

Finally Reilly asked, "Were you beaten—yes or no?"

The witness decisively replied, "Yes, sir . . . The second night when I got arrested." On the first night he was given dictation. Hauptmann said the spelling of some of the words was dictated to him. He was asked to spell "not," *"note."*

Reilly asked, "How do you spell 'signature'?"

Hauptmann spelled it correctly and declared that it had been dictated *"singnature."* [9]

Repeated questions brought from the witness confirmation that he had written the words according to dictated spelling. Hauptmann explained that unless he had agreed to write, the police would not have allowed him to sleep.

He said, ". . . I fell asleep on a chair when they poked me in the ribs and said 'You write.' "

Reilly inquired, "After the writing, before you went to the Bronx, did you get any knocks of any kind?"

Hauptmann replied, "Well, that is—I got the treatment, it wasn't home at all . . . It was in the evening, the next day . . . the 20th . . . New York police station . . . Greenwich Street . . ."

There was long objection when Reilly inquired into the nature of the treatment. Wilentz had argued the point and now Reilly turned to Pope and requested him to make the legal plea for the admission of this question, since he knew more of New Jersey law.

During the lengthy argument, Hauptmann started to say, "I—" but Wilentz cautioned him to be silent.

The issue became confused and Reilly inquired: "I will ask you, Bruno, was the statement in the Bronx that you made—were you mindful and fearful of the treatment that you had received downtown in New York when you made the statement in the Bronx?"

Hauptmann explained:

[9] The prosecution was elated, as that word was not included in the request writings. It appeared solely in the ransom notes. In making up the subject matter for the request writings, it had been purposely omitted, because of the publicity that had been given its misspelling.

. . . When Mr. District Attorney Foley was asking me how did they treat me, the coppers in the Bronx, only the treatment in the Bronx jail and in the Bronx courthouse, but that did not cover the treatment in the New York police station. I said the treatment in the Bronx jail and in the courthouse to Mr. District Attorney Foley was fair, but it covers only the Bronx, but the treatment in the police station in New York, it was entirely different, it was just the opposite that way. I got the effect from this treatment for two months, that is the reason I lost over thirty pounds.

After a recess the witness was turned over to Wilentz for cross-examination.

Before the Attorney General could ask a question, the witness surprised everyone with his calm and respectful request: "Mr. General, may I go back to my financial, on my financial transaction?" [10] Wilentz graciously acceded to his request, and the witness explained that all his testimony on his financial transactions with Fisch had been given from memory because they kept no records.

Wilentz nodded encouragingly, and the witness continued, "And it may be some difference in one way or another way."

Wilentz very nicely summed up what he gathered to be Hauptmann's meaning, and Hauptmann felt that they understood each other very well.

Changing his attitude quickly, Wilentz hurled his first question: "Mr. Defendant, you came into this country, when you came here, illegally, didn't you?" There was an affirmative response.

Aggressively, the Attorney General asked if he had enjoyed the privilege and opportunity of earning a living.

Hauptmann replied, "Yes."

Wilentz asked if he had received police protection during these years; and the witness revealed his awareness of his position by answering, "Not quite; not quite."

After further questions, Wilentz in a fatherly tone said, ". . . You have had an opportunity in this court today, and you still have an

[10] Hauptmann's opening remarks to Wilentz clearly indicated that he thought the explanation of the possession of the money the most important problem in the case. It was apparent that he disregarded expert testimony in regard to the handwriting and the wood. He had been caught with the money, and it was that alone he felt called upon to explain. He felt that if the possession of the money could be clarified, the case could be dismissed.

opportunity this minute to tell the whole truth. Have you told the truth?"

Hauptmann immediately responded, "I told the truth already."

Wilentz rapidly questioned him as to whether he still held to his statements made in the Bronx.

The witness replied, "To a certain extent." He indicated, however, that all of his statements under direct examination had been true.

The Attorney General reviewed the witness' previous testimony concerning his arrest in Europe in the spring of 1919 and his parole in 1923.

After his parole, the witness explained, "I was trying to sell some goods, later I find out it was stolen . . . I got arrested."

Hauptmann insisted that at that time he had not been taken to jail, but to a police station, and stayed there only a few days.

Asked what had happened, he replied, "They was working in the garden or in the yards, and I went out; the door was open and everything."[11] Wilentz, however, forced the admission that he had escaped.

Ten days later the defendant was returned to jail. Wilentz informed him that after his escape, he had taken his jail clothes, packed them in a bundle, gone back to the jail and left the package with the note, "Best wishes to the police."[12]

Hauptmann, with a surprised smile, inquired, "From where you got the story?"

Hauptmann maintained he had been convicted only once, but Wilentz forced the admission that he had also been convicted of having broken in and entered the mayor's home in Germany on March 15th or 16th, 1919.

Wilentz, wishing to portray the defendant's psychological pattern,[13] inquired, ". . . You went through a window, didn't you?"

[11] Hauptmann evaded the answer by a process of infantile reasoning which disregarded and denied the seriousness of the situation.

[12] Wilentz informed me of the authenticity of that episode. If true, it is highly significant and illustrative of an omnipotent, defiant personality in harmony with other examples which were observed.

[13] It has been observed that acts and attitudes of human beings tend to follow a repetitive pattern. It was, therefore, important for Wilentz to bring before the jury earlier behavior to prove his present contention. It was for that reason that he referred to the defendant's entering the window of the mayor's home, the most important personage in the town, and of having held up, as well, two women who were pushing baby carriages. It was by the latter example that he wished to point out a complete disregard for the children who were the innocent parties.

Defense counsel objected, but the witness answered, "I was present but I can't remember I went through the window."

Then Wilentz snappily asked, "Isn't it a fact that you were convicted, you and another man were convicted of holding up two women with a gun?"

Hauptmann replied, "It is."

Wilentz continued "—wheeling baby carriages."

Hauptmann angrily retorted, "Everybody wheels baby carriages—" Wilentz did not allow him to finish the sentence.

Asked if he had ever been convicted of stealing some things from a restaurant in Kamenz, the witness facetiously replied, "That is one I can't remember."

Wilentz asked, ". . . In December, 1918, or January, 1919, weren't you convicted of stealing some clothing from a guest room in Kamenz and then exchanging that coat with your brother for another one?"

The witness replied, "I can't remember that coat."

Wilentz continued, "Weren't you convicted of stealing some driving belts, which you then later tried to sell to a policeman?"

The defendant replied, "I will say what you are reading is something new to me."

When Wilentz referred to the defendant's family in Germany, the witness flushed and his expression revealed severe emotional tension. He said he had a sister who had lived in California but he did not know where she was now.

When Wilentz told him he had come to the United States without an invitation, Hauptmann calmly replied, "Didn't have any money to come over in the regular way."

Wilentz sarcastically stressed the fact that the witness had "sneaked into the country." Hauptmann seemed proud of this achievement.

The Attorney General now inquired: ". . . When you told Mr. Reilly that you were in this country under parole, you knew very well then . . . that Germany wanted you for years . . ."

Hauptmann replied:

No, sir, because when I entered the United States the first time I did, I was writing my mother a letter I am safe over here and if the German Government have any interests to convict me or have me back they always got my address on hand, they only have to go to my mother.

The defendant admitted that he had been making arrangements to return. Shown a small notebook, he said it was in his handwriting. The Attorney General, standing alongside of him and pointing to a word in the book, asked if that were his handwriting. Obviously the witness was undergoing a great strain, his face flushed, he appeared ill-at-ease and did not answer. He was asked if some policeman had written it.

Somewhat confused, the defendant replied, "I—I can't remember every word I put in here." Wilentz forced a reply and he said, "It looks like my handwriting, but I can't remember I ever put it in." He admitted having written the numerals on the same page, but when questioned again about that word, he again repeated his inability to remember.

Wilentz becoming a little angry, said, "Well now, this isn't a joke. You know either it is your handwriting or it isn't . . ."

Hauptmann now replied, "It looks like my handwriting." From his reaction it was very evident that he sensed the significance of that word.

The Attorney General inquired, ". . . How do you spell 'boat'?"

The witness clearly answered, "B-o-a-t."

The Attorney General shouted, "Why did you spell it b-o-a-d?"

Hauptmann calmly asked Wilentz how old the book was.

Wilentz snappily replied, "I don't know how old it is. You know; I don't know."

Hauptmann asked to see the book. After examining it, he said it was probably eight years old and admitted the handwriting was his. He casually explained his having written "boad" by saying, "Well, after you make improvement in your writing."

Although Hauptmann admitted that eight or ten years ago he might have written "boad," he was not certain that he had written it in the book. He was becoming a little confused as the Attorney General tried to trap him into an admission that at one

time, whether it was eight, six or ten years ago, he had spelled "boat," "boad."

Hauptmann responded, "I don't know."

Wilentz argued, "You spelled it in there, didn't you?" Hauptmann, rather agitated, started to say something, but Wilentz, pointing a finger at him, yelled, "You tell the truth now. Didn't you spell it in there?"

The defendant, realizing he was being crowded, angrily retorted, "Now, listen. I can't remember whether I put it in there."

Fisher, always very sensitive to the feelings of his client, excitedly objected and Pope followed with his objection.

Wilentz sarcastically responded, "Well, it isn't twice objectionable."

Fisher, still angry, replied, "Yes, it is twice objectionable."

The Court eased the situation, saying it was not necessary for the Attorney General to request the witness to tell the truth.

Wilentz handed the book again to Hauptmann who immediately started to look through it. The Attorney General told him to look at only one word, as the rest of the pages would be discussed later.

Hauptmann, trying to take advantage of Wilentz, replied, "I looked at it already." He denied that all the writing on the page was his. Asked which words were not in his handwriting, he answered, "Some handwriting I can't even make out."

Wilentz asked if "boad" were in his handwriting.

Hauptmann replied, "I don't say yes or no because I can't remember ever putting it in."

The book was marked for identification and Wilentz snapped, "The reason you don't say yes or no is because you wrote 'boad' when you got the fifty thousand from Condon, isn't that right?" The witness denied it.

Wilentz handed him the note containing the words, "boad Nelly," and called his attention to "boad," asking if it were spelled as it was in the book. The witness assented.

When Wilentz remarked about the open "o" in the word, the witness inquired, "What makes a difference? I don't know if I put it in—"

Wilentz threatened, "We are going to find out. Just tell me if you find the 'o' not closed on top." The witness admitted it, and

when shown another open "o" in the little book, admitted that, too, but called the Attorney General's attention to one which was closed.

Wilentz pointed out that in the province of Saxony from which the defendant had come, "d" is used instead of "t."

The witness stated that it was not so, as, "They spell it maybe mit 'd' but they write it in 't.'" He evidently meant that the "t" was pronounced as a "d."

Wilentz requested him to look at two checks given to brokers and, as though the examination were going to be rather lengthy on this point, he declared, ". . . just two of them for tonight . . ." He discussed the letter "x" on the checks and the same letter on an automobile license and then asked if he had not seen the same "x" when the handwriting experts discussed the ransom notes.

Pope objected, but Hauptmann answered, "Well, now I really can't remember it—"

Pope continued to interrupt with his objection until the Court finally stated he had been overruled.

With a trace of sarcasm Wilentz inquired, "So you are a carpenter?"

Hauptmann proudly replied, "I am."

He had held his last position four or six weeks before his arrest; since April, 1932, he had not worked regularly.

In response to Wilentz' remark that he had been a trader in the stock market, he elaborated: "Trading in stock market, trading in furs, and through some mortgages coming in."

The Attorney General, measuring each word, stated: "And every dollar of money that went into those brokerage accounts that you have talked about today, every dollar that went in there you took yourself and gave to the brokers, didn't you? You delivered it to the brokers, didn't you?"

The defendant replied, "Yes, I delivered to the broker."

Wilentz indicated that the defendant's financial transactions with Fisch had been unknown to anyone except the two of them, and Fisch was dead. When Wilentz again referred to Fisch's demise, Hauptmann declared that it had been "unfortunate," implying that were Fisch alive he would not be in his present predicament.

Asked whether Fisch had been his best friend, Hauptmann, al-

though weighing his reply carefully, said, "Well, I don't say best friend, but—"

While he was thinking, Wilentz inquired, "You don't say so?"

Hauptmann added "—he was very good friend."

The Attorney General inquired, "Did he help you kidnap this Lindbergh child and murder it?"

Hauptmann, very uncomfortable, said, "I never saw—Mr. Lindbergh's child."

Wilentz showed the witness a board taken from his garage. He asked Hauptmann if he had noticed that the circles used as a symbol in the ransom notes, like the holes in the board, were round.

Hauptmann answered, "Well, when you drill a hole, it has got to be round." [14]

There was, nevertheless, Wilentz stated, no need for a round hole in which to put the money. Hauptmann claimed that it had not been prepared for money. Wilentz insisted that Hauptmann had told the District Attorney he drilled these holes specifically to hold money. Hauptmann maintained he had drilled the five holes in the wood in order to put "small bits" into them. Wilentz, forcing the issue, repeated that the witness had told the District Attorney he drilled the holes for money.

Slowly, and in a low voice, Hauptmann answered, "That can be impossible to say."

Wilentz now called his attention to an oblong hole, and asked why he had drilled this.

Hauptmann was clearly evasive in his reply, "To put something in."

Wilentz forcefully inquired, "What did you put in?"

Still evasive, he replied, "It wasn't money."

Reilly objected and a heated discussion arose. Defense counsel addressed the Court: ". . . I say that unless ransom money was in that particular hole of which he speaks, the admission of what he made it for or what he did is incompetent, immaterial and dangerous."

[14] Psychiatrists have been condemned severely for indulging in "flights of fancy" when interpreting the association between ideas and acts. The Attorney General, sympathetic to modern psychiatry in this instance, attempted the subtle interpretation that most psychiatrists would have hesitated to offer.

The Court requested the question and Wilentz replied, ". . . I think the last question I asked him was what he did bore this larger hole for and he said not for money. My next question is 'What did you bore it for?' " The Court ruled the question might be answered.

Meanwhile Hauptmann, becoming more and more ill-at-ease, stated, "I put something in there."

Reilly's forcefulness in attempting to prevent the answer magnified the issue to such an extent that he had to heatedly declare: "We are not hiding anything, Mr. Attorney General . . . Nor are you going to put me on the spot by saying we are hiding anything, but I do say this, that I am in a court of law presided over by a Justice of your Court in your State, and I still maintain that you will be bound by the rules of evidence of this State, and every other state of the United States."

Although the argument continued, the Court finally ruled that the witness answer.

Hauptmann softly replied, "I put a small pistol in it." He had put five rolls of bills in the other holes.

Subsequent questions changed the direction of the examination.

Hauptmann thought he had used the name "Perlmeyer" [15] on his first attempt to enter the United States.

The Attorney General asked, "What was the first name—John?"

Asked that question several times, the witness could not say. Now asked if, when he had bought a pair of field glasses, he had used a different name, he responded firmly in the negative.

Wilentz created some excitement by aggressively inquiring, "Are you the cemetery 'John' that was up in Woodlawn Cemetery?"

Hauptmann, quite provoked, retorted, "Positively not." Wilentz repeated the question but with reference to St. Raymond's Cemetery, and Hauptmann, leaning forward, yelled, "No, I never was in the cemetery."

[15] When an individual is faced with the necessity of assuming a new name or choosing a pseudonym, the rationalization for the choice is on a conscious level. However, studies have revealed that the selection of particular names has been governed largely by the unconscious, regardless of acceptable conscious reasons. It is possible that, beside others, the basic reason for Hauptmann's choice of "Perlmeyer" might have been that the inclusion of the feminine Christian name was the unconscious symbol of an unconscious feminine identification.

The situation lost its tenseness as the Attorney General pointed out that he had lived but a few miles from both cemeteries.

Hauptmann replied, "Well, it just happened."

Wilentz stated Hauptmann had told Reilly he did not know where Woodlawn Cemetery was.

The witness answered, "Well, I guess everybody that lives in The Bronx knows where Woodlawn Cemetery is."

Wilentz said, "Sure. That's what I thought . . ."

Reilly jumped to his witness' support and told Wilentz he was mistaken: the witness had stated that he did not know its exact location.

Wilentz politely responded, "If I am mistaken the record will show it."

* * *

On the morning of January 28th, the courtroom was very noisy and Justice Trenchard rapped for order and announced that those who wanted to talk had better leave. The clerk tried to poll the jury but could not be heard on account of the clamor. Order was finally restored and Hauptmann resumed the stand.

* * *

He testified that on the trip to California in July, 1931, he had once been up in an airplane. When asked if he had hired a motor boat, he appeared surprised and replied, "I can't remember."

Wilentz, pressing the point, inquired if he remembered having paid seventy-five cents for himself, his wife, and Kloppenburg for a boat ride. The witness just stared at Wilentz and remained silent. The Attorney General discussed the witness' habit of recording every expenditure. The defendant admitted he had kept a detailed account of his expenses of that trip.

Wilentz discontinued this subject and inquired if he had kept an accurate account of all his stock transactions. Hauptmann testified that his figures were accurate, but that he had not indicated all his transactions in the book. He had saved some money which he had not recorded so that his wife should not know about it.

Wilentz then concluded, "Oh. In other words, you were hiding it from your wife."

Wilentz inquired, ". . . When you found $14,000 or more in gold, how did you feel, did you cry? Did you laugh? Were you happy or were you sad?"

The witness answered, "I was excited." He did not, he said, inform his wife.

This surprised Wilentz, who asked, "Well, when you say you were excited, what do you mean? . . ."

With a little smile, Hauptmann answered, "Well, I guess everybody is excited if he finds $14,000."

Wilentz asked if he were excited now, and the defendant inquired, "Why should I?"

Wilentz sarcastically answered, "No, it is quite a joke with you, isn't it?"

Hauptmann quickly changing his tone, replied, "No, it isn't a joke, I am very earnest."

The Attorney General then asked, ". . . Were you earnest with your wife when you found the $14,000?"

The witness angrily replied, "That has got nothing to do with my wife."

Asked if he had been honest with her, he responded, "I guess I was honest."

Wilentz, shouting in a tone of censure, said Mrs. Hauptmann had worked and slaved in a bakery and had, after her marriage, brought all her savings to him. Hauptmann continued to insist that the $14,000 had nothing to do with her. Wilentz, scolding, pointed out that his wife had purchased all the furniture for his home. Hauptmann maintained that the money for those purchases had come from their joint bank account.

The Attorney General, growing angry, declared that Mrs. Hauptmann had given the witness "every dollar she had in the world." Hauptmann argued that he also had contributed all of his money. Wilentz sarcastically replied, "Yes." The Attorney General discussed the witness' partnership with his wife which, he said, had been discontinued after the $14,000 was found.

Angry, Hauptmann replied, "Absolutely not, why should I make my wife excited about it?"

Wilentz returned once again to the fact that he had also kept ten dollars or more each week out of the bank account. The defendant said he had saved this separately to surprise his wife; he contemplated building a house for her.

After many questions, Hauptmann finally remembered a Mr. Brent. He seemed surprised at this person's introduction into the case.

Wilentz asked if at one time he had said, ". . . Mr. Brent, if my wife ever asks you where I was some night tell her I was with you." Hauptmann sharply denied it.

Wilentz sarcastically said, "You only kept the money business away from her, is that it?" His facial expression showing intense anger, Hauptmann stared at the Attorney General but did not speak.

The defendant admitted he had asked for a German-American dictionary in the Flemington jail. Asked if that were how he had learned to spell "signature" correctly, he answered in the negative. Wilentz then called his attention to the handwriting testimony concerning "sing" and "singnature" and asked if it were his habit to put an "n" where it did not belong. There was a negative reply.

When Wilentz insisted he had done it frequently, Hauptmann answered, "I can't remember. I don't remember doing it at all."

The Attorney General handed Hauptmann a check which he identified as his own. Asked to state its amount, he looked at it carefully and answered, "Seventy-four dollars."

He was now asked how he spelled "seventy." Hauptmann seemed somewhat confused as Wilentz tauntingly requested him to speak louder.

Surprised and embarrassed, the defendant made a strong effort to control himself, and started in a very low voice, "That is—"

Wilentz, the trap set, urged him, "Loud, now."

The witness slowly uttered, "—s-e . . ."

He stopped and the Attorney General urged again, "Loud, now . . ."

The witness continued, "S-e-n" and before he could finish, Wilentz yelled, "Senvety" and Hauptmann agreed, "Senvety, yes."

The Attorney General demanded the check and continued, ". . . The same 'n' as you have in 'singnature.' Isn't that right?"

Pope objected and the Court requested that the question be modified.

Wilentz asked, "Didn't you place the 'n' in 'senvety' just like you placed the 'n' in 'singnature' and for the same reason?"

Pope objected again but was overruled and Hauptmann replied in the negative.

The writing of "New York" was discussed after Wilentz had given the witness the request writings. The Attorney General pointed out similarities between that writing and the writing of "New York" in the defendant's book. The Attorney General had Hauptmann underline "New York" four times in his book. He then declared, "I ask the jury to look at this 'New York' on the sleeping garment, and every one of those four 'New Yorks' in that book."

Pope objected but was overruled and Hauptmann's personal account book was accepted in evidence.

Hauptmann was asked if he remembered the handwriting testimony about the transposition of "g's" and "h's" as in the words "right" and "light."

Facetiously, he replied, "Gee, there were so many talking, I really can't remember."

There were further questions about handwriting and spelling and Hauptmann declared, "You see I am not so very perfect in writing English . . . I write really very, very seldom." Wilentz maintained he wrote a great deal and kept a complete set of accounts.

The Attorney General called his attention to an entry pertaining to Curtis Wright aviation stock and requested him to spell out loud the "Wright."

Hauptmann, aware of the significance of the question, answered, "That is h-g-t."

Wilentz insisted he spell the entire word.

The witness complied, "W-r-i-h-g-t." He agreed with the Attorney General who said it was like the "h-g-t" as in "light."

In a satisfied manner, as though the question were not important, he stated, "Yes, that is right."

Wilentz followed quickly: "Just like in the ransom notes, 'h-g-t' in 'light,' isn't that right?" Pope objected and the question remained unanswered.

The witness admitted having had a German dictionary in his home in March, 1932.

Wilentz now returned to the notebook containing a detailed expense account of the California trip. Various entries were discussed and the witness finally admitted that the page with the entry "boad" had been written after July, 1931. Suddenly the Attorney General requested Hauptmann to spell "signature," slurring over its enunciation. Hauptmann, with a little smile, spelled "S-i-g-n" and stopped, apparently thinking Wilentz' only interest was the placing of the "n." The Attorney General inquired if he thought the word funny; Hauptmann completed the spelling. After other questions, the notebook containing the word "boad" was exhibited to the jury and Pope offered no objection, with the reservation that later they would dispute whether the "d" was actually "d" or "t."

Hauptmann was asked to read aloud one of the ransom notes and found difficulty in doing so.

Wilentz commented upon this and Hauptmann quickly replied, "You bet it is."

This was the note in which the kidnaper had stated that the kidnaping had been "planned for a year already." Hauptmann's account books showed no entries from July 30th, 1930, to August, 1932, and Wilentz, by subtle implication, tried to establish as the reason for it that the witness, from the time the Lindbergh baby was born, had planned to kidnap it.

Hauptmann stated, "I even didn't know the Lindbergh child was born."

Wilentz now gave him a notebook which he identified as his and asked him to look at each page. The witness identified page after page and then remarked that three pages were not in his handwriting. One of the pages contained some drawings, one of which Wilentz said was of a window. Hauptmann could not agree, though certain it was not his drawing.

Wilentz referred to another drawing on the same page and dramatically stated, "But you can make out the ladder there with the dowel pin." Although the Attorney General repeated it, the witness would not agree.

Wilentz, coming to a page with another drawing, asked what

it was, but Hauptmann inquired, "You are asking me? I don't know what it is."

They continued to turn the pages, which Wilentz described as having "funny drawings like a child would draw," but the witness did not comment. He later admitted that a child had come to his home and drawn them. The last page of the book contained the score of a card game; Hauptmann could not state whether it was in his handwriting. He identified pages containing his records of overtime work. The last page was covered with a child's drawings.

A short recess was taken and when court reconvened, Wilentz said: "Now on April the 2nd, 1932, you remember that is the date that there has been testimony by Dr. Condon that he paid you $50,000?"

Hauptmann, bewildered, asked, "Me $50,000?"

Wilentz sarcastically answered, "Yes. You recall that was his testimony. . . ."

Hauptmann on that date had fifty shares of Warner stocks, his bank account showed a balance of approximately $200 and that was all his money then except for a mortgage which his wife had purchased.

Hauptmann's transactions were discussed, and his practice of keeping cash money in a trunk in the front room of the house was mentioned. Hauptmann had had the only key to it and had put in it on the average ten dollars a week. After other questions about his earnings at specific times, Hauptmann thought he was worth about $10,000 at the end of 1929.

Once, as he was referring to the amount of money in his possession, Wilentz sarcastically asked him, ". . . Did you ever have that much money when you were in Europe?"

Hauptmann facetiously answered, "I got billions . . . Inflation it was."

Wilentz cuttingly remarked, "That is a sort of hallucination with you, isn't it, this billions business?" There was much laughter and the Court requested silence.

Hauptmann admitted he had had very little money in Germany.

As he said that, Wilentz hammered at him, ". . . So this business about billions you think is a great joke, don't you?"

Hauptmann replied, "No, I guess it is not a joke at all."

As Wilentz forcibly inquired, "Then you don't mean billions at all, do you?" Hauptmann, ill-at-ease, regarded him but did not answer.

In referring to an entry in the book, Mrs. Hauptmann's salary and tips, Wilentz fairly took Hauptmann off guard when he inquired, ". . . Did she hide any money on you?"

The witness, confused, startled the audience as he replied, "Well, I am not—I don't know."

Wilentz surprised, indicated that he did not think Hauptmann really thought his wife kept money hidden from him. Hauptmann continued in the same doubtful manner that he thought everybody had a secret, although he had never asked her.

He finally stated, "I really don't know."

When Wilentz asked, "You wouldn't give her the benefit of the doubt?" he answered most surprisingly, "I don't tink so." [16]

There was further examination of the monies earned by Mrs. Hauptmann, recorded in the book. The entries were further examined and the handwriting was compared with that of the ransom notes. Hauptmann consistently denied any similarity.

The witness always insisted that he had had a great deal of money hidden at home, but Wilentz referred to a letter of May, 1931, revealing that he had been unable to pay his broker $74.89. Hauptmann admitted that he had been losing money in Wall Street until April 2nd, 1932. The defendant insisted that he had not paid the sum of money from the $4,000 in his trunk because he was waiting for a pay check. Then Wilentz emphatically maintained that he had not paid it from the money in the trunk because he had none. The witness insisted that he had made a practice of never using the money in the trunk.

Wilentz hammered away at this inconsistency and said, "You weren't such a good stock market operator, were you?"

[16] Hauptmann's reply revealed a consistency in mental attitude. His certainty pertained only to himself and he was unwilling to extend the benefit of doubt to others. By his refusal, or inability, to come to the defense of his wife, he placed himself in a peculiarly ironical position as far as the jury was concerned. He stood before the jurors as one who was pleading to be given the benefit of the doubt under most suspicious circumstances. He even asked them to believe he kept the money in a basket for two weeks without having counted it. What he asked them to believe was for more than he was asked to do for his wife.

Hauptmann, taken aback but attempting to be clever, replied, "Well, you have to—the first time you got on the stock market you have to pay for it."

Wilentz hurled back in an electrifying tone, "And the first time you build a ladder you don't build a good one, do you?"

Hauptmann angrily retorted, "I never build a ladder."

Wilentz asked, "Did you build floors?"

The witness, now in control, answered, "I lay floors, yes."

There were rapidly delivered questions about Hauptmann's ability to work, about his experiences in Germany as a carpenter and machinist; Hauptmann denied knowing anything about blueprints.

Asked if he remembered the symbols of the Krupp Company, the three interlocking circles, he answered without hesitation, "I saw it."

The witness identified a telegram received from a broker requesting margin and read it aloud. He admitted the receipt of registered letters. These letters demanded twenty-four dollars margin to cover his brokerage accounts. Hauptmann, in answer to questions concerning his inability to pay this sum, indicated that the amount had been so small he had ignored it. These letters were dated December, 1931, about three months before the kidnaping. Wilentz then reinforced the fact that at the end of 1931, Hauptmann had very little money.

As he stressed the losses in brokerage transactions, some of which was Mrs. Hauptmann's money, and Hauptmann's unwillingness to use his own money in the trunk, Wilentz began to anger the witness. If it was true that he had had some unknown to Mrs. Hauptmann, it signified that he cheated to a certain extent.

Wilentz hurled in an accusing tone, "Did you want to get away from Mrs. Hauptmann?"

The witness, surprised, regarded him and said, "No, it just happens that—"

Before he could finish, the Attorney General yelled at him, "Didn't you say, when Mrs. Hauptmann came back from Germany, that you couldn't live with her any more, that was when you had all these thousands of dollars at home?"

Hauptmann more surprised than ever, sat erect in his chair and yelled, "What?"

Wilentz repeated the question.

Then Hauptmann answered, "Do you know what you are talking about?"

Wilentz, argumentatively pressing for an answer, said, "I am talking about you and your wife, yes. . . ."

The witness denied ever having said that to anyone.

Wilentz continued in his disputatious manner, while the witness became confused and very uncomfortable. He began to discuss the box of money which Fisch had left in Hauptmann's home.

"How much money was in that box?" he suddenly asked. Hauptmann appeared absolutely dazed; he just kept looking at him and did not answer. Wilentz insisted, "How much money was in that box? . . . You counted it many times?"

Hauptmann said that some time later he found out that there was $15,000. Now very guarded, he began to insist that he never counted the money while it was in the box; he counted it after it had been removed and dried. Despite the Attorney General's persistence, he could not force Hauptmann to say exactly how much money there had been in the box. The witness maintained that when he took the money out of the box and brought it down to the garage, he did not count it.

Wilentz asked, "You left it lay in a basket all night and you didn't count it?"

The witness replied, "That is right."

Coolly, Wilentz pressed his conclusion: "The reason you didn't count it was because you knew, didn't you?"

Wilentz continued to hammer away at this point until finally the witness, plaintively threatening, said, "Now listen, the first money, I took out—" Wilentz insisted that he was not interested now in the money taken out, but the counting of it. The issue was finally resolved when the witness said he had left the money in the basket for two weeks in the garage and had not known how much there was. Wilentz showed that although Hauptmann had previously insisted that the trunk was the safest place to keep money, he kept "Fisch's money" in the garage in an open basket for two weeks. Wilentz hammered at Hauptmann's awareness that the

closet in which he had put Fisch's money was not waterproof but had leaking pipes, despite Fisch's admonition to put the box in a dry place.

Wilentz calmly asked if it were not a fact that his reason for insisting that he had met Fisch before June was his anxiety to account for money he deposited prior to June, 1932. Hauptmann emphatically denied the implication. His attention was called to his statement to the police of having met Fisch at the Henckle home after he had met Mrs. Henckle at Hunters Island.

Hauptmann continued to insist that he had known him before and Wilentz read his police statement: ". . . I was sitting with the family named Henckle; he was boarding in the same house. Mr. Fisch used to be upstairs and he often came downstairs for company . . ."

Hauptmann stated he probably had said that, and admitted having told the police he had met Fisch in the Henckle home.

Wilentz, trying to force a definite answer, inquired, "Isn't that where you were introduced to him?"

The defendant replied, "But it doesn't mean first." Hauptmann said he had not told the police he had met Fisch before being introduced to him at the Henckles', because the question had come too suddenly.

The Attorney General now asked if, on looking at the ransom notes and having listened to the testimony of the handwriting experts, he were of the opinion that someone had copied his handwriting.

Hauptmann, first evading the issue, answered, "That is the way it looks."

Wilentz pointed out, that if Hauptmann had not met Fisch prior to March 1st, 1932, Fisch could not have copied his handwriting. Hauptmann said that although he had not known Fisch at that date, Fisch might have known him.[17] He admitted that he had not written any letter to Fisch before March 1st. Although Haupt-

[17] This is a good example of his omnipotent attitude. Such a statement, as a rule, is accepted as the right of individuals whose position makes them known to thousands and who cannot, therefore, be expected to know everyone who knows them. Hauptmann's explanation was entirely out of proportion to his station in life.

mann was unwilling to declare that Fisch had written the ransom notes, he tried by subtle answers to infer that he might have.

He admitted visiting Mrs. Henckle frequently when her husband was away and having coffee with her. Wilentz commented pointedly on his having taken his first cup of coffee with his wife and his second with Mrs. Henckle. Hauptmann insisted that he visited the Henckle home to see Mr. and Mrs. Henckle. He could not remember having been told by his wife not to bring the Henckles home, and insisted that he had not quarreled with her about it.

Wilentz asked where he usually had his meals during the months of March, April and May, 1932. Hauptmann could not remember, as he did not eat at any regular place. When Wilentz referred to a restaurant owned by Fritz Hahn, the witness said he went there often, but irregularly. Mrs. Hahn, the wife of the owner, visited the Hauptmann home occasionally. Hauptmann could not remember having been in Hahn's restaurant when the announcement was broadcast that the body of the Lindbergh baby had been found.

Wilentz inquired, "And you rushed right out, didn't you, that night?"

Hauptmann conveyed extreme surprise in his manner and asked, "I?"

He insisted he could not remember when he first heard that announcement. He then admitted having been a regular customer at Hahn's restaurant. Wilentz, calling attention to his previous denial, asked if he feared the Hahns. He sought to prove that the Hahns had been very close friends of Hauptmann's. Hauptmann could not remember the exact night in March, 1932, that he was in their restaurant.

Wilentz asked: "Do you remember some time around the first week of March or the middle of March when you came into that restaurant Mr. Fritz Hahn hollered to you, 'Richard, how is your dog? . . ."

Hauptmann replied, "No, sir . . . Will you fix a date, set the time?"

Wilentz complied, "About the middle of March, maybe the first week of March, after the first of March?"

Hauptmann could not remember but thought he had not been

in the restaurant then and pleaded for a chance to think a little. He could not remember having been there during March.

Wilentz dramatically exhibited a plank and asked if he knew what it was. Hauptmann, at ease, quickly responded that it was a piece of board. When Wilentz indicated that it had come from his own home, Hauptmann disputed his certainty, arguing that the board was a piece of trimming and that trimming from every house looked similar. Wilentz insisted it had come from his closet, but the witness remained uncertain. Asked if the handwriting on this wood were his, there was an emphatic denial. Wilentz now gave him the board and asked if he had written the numbers.

Hauptmann appeared slightly embarrassed: "The numbers look familiar upwards. I can't remember for putting it on." Asked whether it were his handwriting, he replied, "I can't remember putting them numbers on." Wilentz inquired whether his memory had been better when he talked to the District Attorney in the Bronx, and Hauptmann said he had been excited during his extradition proceedings. He hesitated and then said, "I say yes."

Wilentz read some questions and answers read to Hauptmann during the extradition proceedings.

Before Wilentz finished, Hauptmann, ill-at-ease while a long question was being read, finally interrupted and started to say, "I will—let's explain before you read further—" The Attorney General interrupted him and continued with the question.

Hauptmann insisted he could not remember it. Wilentz finally asked whether, during those proceedings, testimony had been read in which he admitted to District Attorney Foley that the handwriting on the wood was his. The manner in which the Attorney General read this question made it appear that the witness' "Yes" applied to the present question. Reilly interrupted that this was not his answer now; they were referring to his answers to the question in the Bronx.

All of the questions Wilentz now put to Hauptmann were answered with, "I can't remember." Asked if he remembered having been in the Bronx court, Hauptmann answered, "I suppose I was there." Later he admitted that he remembered having been there, but indicated he had not known to what the hearing there pertained.

He was becoming confused, and completely denied ever having said that the handwriting on the wood was his; he had never said so in the court.

Wilentz dramatically asked: "Didn't you swear in the Bronx County Court House before Supreme Court Justice Hammer, swear unto God, that it was?"

Hauptmann immediately answered, "I did." Inspecting the board with special interest in the handwriting, he stated, "I can't make it out."

Further discussion about questions and answers in the Bronx caused Hauptmann to seek refuge in inability to remember.

Asked whether he knew that the numbers on the board were Condon's telephone number, he replied, "I know it now"—insisting that at his appearance before District Attorney Foley he did not. Hauptmann maintained that during the handwriting discussion with the Bronx authorities, he consistently told them he could not remember having put the numbers on that board. He admitted that Foley had given him a magnifying glass with which he had been able to read the blurred letters. Wilentz spent much time reading testimony given in the Bronx District Attorney's office, but Hauptmann continued his evasiveness, answering but few of the questions directly.

In response to Foley's question as to why he had written on the board, Hauptmann replied: ". . . I must have read it in the paper about the story. I was a little bit interest and keep a little bit of a record of it and maybe I was just in the closet and was reading the paper and put down the address . . ." Asked if that had been his reply, Hauptmann said, "I really can't say yes or no about it." He finally summed it up: "I guess I told him something about it."

Wilentz now asked what he thought he had told District Attorney Foley. Hauptmann explained, "That is a habit, when I read something in the paper or something in a book—that I make a notice on a—mostly I put it in the kitchen. When you look through my kitchen I guess you find plenty of notice like that."

Wilentz scolded him and asked why he had not said so the first time instead of "stalling and fighting." Pope jumped to his feet and declared there was no evidence of stalling. Wilentz, an-

noyed, insisted there was. Pope calmly asked the Court to admonish the Attorney General, but the Court tersely declined. Pope asked the Court to instruct the jury to disregard the comment, but the Court refused.

Afer persistent questioning, Hauptmann was willing to say that the handwriting on the wood looked like his; he had also said that in the Bronx. He now emphasized the impossibility of his having written in the closet because it was so small. Wilentz indicated that his very reason for having done so was so he alone could read it. Hauptmann became calm now and appeared satisfied that his reply was adequate. He again described his writing of dates on the kitchen wall or elsewhere.

Asked if he were interested in historical aviation events, there was a negative response. Asked if he knew the name of the greatest German aviator during the World War, he replied. "Richthofen." Wilentz insisted on the full name and he replied "Manfred Richthofen [18] . . . I was just reading the book in the jail, and that brings my memory back."

Wilentz went back to the witness' Bronx testimony and continued to read it. He always received the reply, "I can't remember." He hammered away at the witness, and it became obvious now to Hauptmann that his replies to Wilentz were inadequate.

At one time Wilentz declared, ". . . You might just as well answer it because I'm going to stay here until you do." Hauptmann maintained that he had told Foley the truth.

When Wilentz suddenly switched to whether he had told the truth about the board in the Supreme Court in New York, Hauptmann was ill-at-ease. He looked at Wilentz, emotionally paralyzed. He uttered the word, "I," and stopped; that was his answer.

Asked why he was hesitating, the witness denied it. He pleaded, "You have to give me a chance."

Wilentz offered to give him all day.

Hauptmann replied: "No, I have to trans—I am thinking in German and I have to translate it in American language, and it needs quite a bit of time; so excuse me." The questions were being hurled.

[18] Baron Manfred Albrecht von Richthofen. See page 67.

As to whether he had told the truth in the Bronx courtroom, Pope, realizing the witness' difficulties, requested that he be given an opportunity to answer. The Court, closely attentive, agreed that the witness deserved that opportunity and ruled that Hauptmann answer the question before explaining.

Wilentz graciously requested, "Will you please do us the kindness of abiding by the rules of the court and answer first yes or no . . ."

Hauptmann, angrily, replied, "Then I say no." He explained, "When I saw Mr. Foley the first time speak about this particular board here I never said yes and I never said no, because I never could make out and I never could remember ever putting it out, and when it came up in the courtroom I only simple said yes, mitout thinking of it. . . . Of course I got to have interest in it, but really is to get over it, first place, I didn't know what to say, so I said yes. Just as well as I could say no."

Questions pertaining to the kidnaping, from the removal of the child from the nursery to the collection of $50,000, were answered in the negative. Wilentz hurled a question which indicated that the defendant had received part of the ransom and he wanted to know who received the other part.

Hauptmann, amazed, hesitated, "The—"

Wilentz forcefully inquired, "Who got the rest of it?"

Hauptmann replied, "I don't know anything about it."

Wilentz asked about serial numbers of bills written on the door; Hauptmann admitted having written the serial numbers of two one-thousand-dollar bills in the summer of 1932. Wilentz stressed the point that it was after April, 1932. Hauptmann corrected that date to the summer of 1933. He said these bills had been given him by Fisch for margin. Later on, Hauptmann stated that when he had originally discussed these numbers with Foley, he did not know whether they had been of a five-thousand-dollar bill or a one-thousand-dollar bill. He indicated that he had possessed considerable money in 1933. Wilentz continued to ask about his conversations with Foley, and at one time Hauptmann's composure returned and he smiled.

Wilentz, alert to the change, said, "This is funny to you, isn't it? You are having a lot—"

Hauptmann interrupted with a negative reply, but Wilentz continued, "You are having a lot of fun with me, aren't you?"

Hauptmann, serious now and angry, denied it and Wilentz hurled back, "You think you are a big shot, don't you?"

Hauptmann, nonplussed inquired, "No. Should I cry?"

Wilentz said, ". . . You think you are bigger than everybody, don't you?"

The defendant replied, "No, but I know I am innocent."

Wilentz continued, "You wouldn't tell if they murdered you . . ."

He responded, "No."

Wilentz said ". . . Will-power is everything with you. . . ."

Hauptmann replied "No, it is—I feel innocent . . . that keeps me the power to stand up."

Wilentz, in one of the most dramatic moments in the courtroom, followed through: "Lying when you swear to God that you will tell the truth. Telling lies doesn't mean anything."

Hauptmann leaned forward in his chair, right hand outstretched, never as tense as at this instant and yelled, "Shtop that." [19]

The courtroom was intent upon the combat.

Wilentz continued, "Didn't you swear to untruths in the Bronx Court House?"

Again came the threatening, loud, guttural, panicky voice of Hauptmann, "Shtop that."

Then Wilentz forced his admission that he had lied in telling the officers, when arrested, where he had got the twenty-dollar bill.

Immediately after that admission, Wilentz orated, ". . . Lies, lies, lies, about the Lindbergh ransom money . . ."

Hauptmann controlled, replied, "Well, you lied to me, too."

Wilentz inquired, ". . . Where and when?"

The defendant answered, "Right in this courtroom here." Wilentz told him the jury would decide that.

Hauptmann now ceased his grinning, which always provoked Wilentz. The Attorney General started to taunt the witness with

[19] This reaction was thought by the audience to have been provoked by the preceding accusation. It was, however, a delayed reaction to the question: "You wouldn't tell if they murdered you?" Hauptmann met that situation under a severe emotional strain and his control seemed about to give way completely as Wilentz indicated his personality was such that even the threat of electrocution could not force an admission of guilt.

the statement that he had stopped smiling because things were becoming a bit more serious.

Hauptmann replied, "I guess it isn't any place to smile here."

Wilentz now repeated Hauptmann's earlier testimony, when shown the ladder: "I am a carpenter." Hauptmann denied that there was anything funny about it, and Wilentz again stressed the subject of will-power.

After recess, Wilentz called Hauptmann's attention to his statement that he had been "excited" in the Bronx courthouse and in the District Attorney's office. Hauptmann said that was his first experience in court, to the surprise of Wilentz, who asserted that Hauptmann had had experience in courts before. This Hauptmann denied, and explained that his excitement had been owing to the treatment he had received from the New York police. When Wilentz wanted to know who had instructed him to change his story, Hauptmann insisted that nobody had; he maintained that he had not spoken of the board or anything else while in jail. Wilentz discussed the board traced to his attic. The witness testified that in order to enter the attic, one had to go through the ceiling of the broom closet. Wilentz then condemned Hauptmann for not having shared the discovery of the money with his wife.

There was a lengthy discussion as to some of the defendant's dealings in Wall Street and the testimony given by Frank. Finally, Wilentz reverted to questions involving a loan of $5,500 which Hauptmann had made to Fisch. When Hauptmann stated that he had not made this loan, the Attorney General demanded the truth. Although the defendant persistently denied having made it, Wilentz forced him to admit he had written the Fisch family in Germany, after Fisch's death, that he had given Fisch $5,500 from his private account.

As the witness attempted explanation, Wilentz interrupted with a burst of oratory: ". . . My God, don't you tell anybody the truth?"

Fisher objected and the Court sustained him.

Hauptmann pleadingly explained that Fisch had owed him that sum, but Wilentz persisted in repeating that he had written that he had given Fisch $5,500 from his private account. The Attorney General insisted he had been lying when he wrote that the money

had been taken from his "private bank account." Hauptmann said he had written "private bank account" to avoid a lengthy explanation of his transactions with Fisch. Wilentz referred to Hauptmann's advice to the Fisch family about appointing him administrator of Fisch's estate instead of lawyers. Hauptmann explained that if lawyers had handled it, very little money would have been left.

There was further examination of Hauptmann's correspondence with the Fisch family, and of his bookkeeping accounts of his partnership with Fisch. After Fisch's death, Hauptmann found his statements about the value of the furs over-estimated. Wilentz now wanted to know why he had not informed the Fisch family that he had found money in a box which Fisch had given him. Hauptmann at first explained that he had found it only a short time before his arrest, but Wilentz indicated that he had already spent some. Hauptmann maintained that he had been entitled to do so. He knew that Fisch's brother contemplated coming to the United States, and upon his arrival he would have informed him. In accounting for bank funds, the defendant now said that Fisch had given him money, and together they put up $16,000 for stock transactions, though he had no record to prove this. After further detailed questions, Hauptmann declared that he had bought stock for others. He admitted having told people he had profited in Wall Street. Wilentz again discussed the letter he had written to the Fisch family, enumerating the articles Fisch had left in his home but not mentioning a shoe box. Hauptmann stated that he had forgotten about the box, but had mentioned all the other items.

On January 29th, Wilentz began his examination of Hauptmann with questions about his salary at the Majestic Apartments. The defendant insisted he had been promised a salary on the basis of $100 a month, but when he realized he had been paid on the basis of $80, he resigned on April 2nd, 1932. There was a detailed and involved discussion as to how he had figured $80 a month; Wilentz insisted the salary had been at the rate of $100. Wilentz wanted to know why Hauptmann had not quit work after receiving his first check for a half month's work, if he realized it was on a basis of $80. Hauptmann answered that he never left a job in the middle of a month; he always left on a Saturday, as did

most carpenters. The Attorney General pointed out that Hauptmann had received, for two days of work in April, 1932, $6.66, on the basis of $100 a month. This check was admitted in evidence; it had been cashed at the National Lumber and Mill Work Company. Hauptmann agreed that he had worked there.

The Attorney General digressed, and Hauptmann denied ever having known Violet Sharpe, or anyone who had known her and anybody connected with the Lindbergh household prior to March 1st, 1932.

Wilentz now inquired about a radio purchased in May, 1932, for $400 in cash and a pair of field glasses in July, 1932, for $126. The defendant admitted having owned field glasses prior to March 1st, 1932. He testified that in July, 1933, Fisch had given him $6,500 in cash in a brokerage office, but was unable to remember whether anybody there had helped him count it or seen Fisch give it to him.

Wilentz now asked if he had ever kept any package of money in a victrola in the living-room prior to his purchase of the radio. He indicated that Hauptmann had once opened the victrola in the presence of Fritz Hahn, the restaurant-keeper, and exposed two envelopes approximately fourteen inches long, and a few inches thick, which contained money. Hauptmann emphatically denied it, and when Wilentz pointed out that Hahn had even inquired about that money, he insisted that Hahn had never been in his home. Wilentz refreshed his memory by recalling a trip with the Hahn family to a near-by resort. The witness recalled it but could not remember they had stopped at his home. The Attorney General even referred to conversation, but Hauptmann persisted in his denial.

Wilentz now asked about Mrs. Hahn's visit to the Hauptmann home prior to Mrs. Hauptmann's departure for Germany, and indicated that Hauptmann had told of having given his wife $1,000 for the journey. Hauptmann denied it and insisted that he had never been at home when Mrs. Hahn visited his wife. Wilentz continued to hammer away at Hauptmann's trip with the Hahn family. He asked, "Didn't he (Mr. Hahn) say to you, when you got in the house, 'My, this is a swell radio; it must have cost a lot of money' . . . ?"

Hauptmann, surprised, calmly replied, "I got the impression you are making up a big story here."

The laughter which followed his comment bolstered him up. Before this episode, he had been exhibiting mental discomfort.

When Wilentz insisted that he answer, Hauptmann calmly replied, "Will you repeat it again?"

Wilentz now inquired if one of his advisers last night had told him to make that facetious reply. There was an emphatic denial. Wilentz asked if one of his advisers had told him to signal his wife to "holler" while Mrs. Achenbach was testifying.

Hauptmann answered, "That is ridiculous."

Wilentz wanted to know if he had been told to change his story about the board and add testimony about a dog. The defendant denied the accusation; he had not referred to the dog in the Bronx proceedings because the question had not been asked. Wilentz insisted that he had been asked to account for *all* of his activities on March 1st, 1932. Hauptmann admitted that, but had not included the story about the dog then because he had recalled it only after he testified; he had not thought it important.

After April 2nd, 1932, Hauptmann spent most of his time in stock transactions and practically gave up carpentry. He declared that he was very well acquainted with the procedure of buying and selling stock. Wilentz now examined him in regard to bank deposits in coins between 1932 and 1934. In discussing the deposit slips Hauptmann said he occasionally had written the sum of money on the "silver line" instead of the "bill line"; therefore these entries did not necessarily mean that he had deposited coin. During the first part of this discussion, Wilentz was holding the deposit slips in his hand; Hauptmann repeatedly asked to see them. He was as anxious as he had ever been, and Wilentz requested him to be patient. He was then shown one deposit slip from 1933 which indicated a deposit of $18 in coins. On this slip, Hauptmann identified his handwriting, and admitted that the sum had not been recorded as bills, but insisted this had been an error. Wilentz, toying with him now, inquired if he wanted to show it to the jury; he acquiesced.

The Attorney General triumphantly declared, "Well, let's show it to them now. You were anxious about it a minute ago."

Hauptmann replied, "You can't expect to carry 200,000 silver in my pocket."

Wilentz surprised, yelled, "What is that?"

Hauptmann repeated, "You can't expect to carry 200,000 silver in my pocket in going to the bank." [20]

There were repeated indications, according to the slips, that silver in large and small sums had frequently been deposited by Hauptmann. Occasionally he admitted a silver entry. At one time, there was a deposit of $259.75 which Hauptmann insisted had consisted of perhaps $258 in bills and $1.75 in coin.

Wilentz pointed out that the entry on the slip bore a notation of a counterfeit quarter; he said, "You couldn't get a counterfeit quarter out of a bill, could you, like that."

Hauptmann, realizing the importance of this testimony, and very nervous about it, angrily replied, "Don't mix me up."

The Attorney General replied, "I am not going to mix you up, but don't you mix anybody else up."

The defendant again tried to explain that there must have been a dollar or two in silver.

Because of the counterfeit quarter in the deposit, the bank teller had recorded the sum of $259.75 and noted that the deposit had been in coins. Hauptmann insisted he never paid any attention to the entry line on the deposit slip. Wilentz now exhibited another slip which indicated an entry for checks and one for coins. The defendant again insisted on the error and stated that in spite of bank tellers' initials he had not been interested in the entries of coins or bills but only in the correct total. All of these deposits were made in the Mount Vernon Trust Company. Wilentz revealed that prior to 1932 he had never deposited even $12 in silver.

The testimony now reverted to Hauptmann's account book. He stated that the record was incorrect because he had not entered everything; the entries themselves were correct. He had sold some stock for Fisch but had not informed the Fisch family. Hauptmann admitted that for a few weeks prior to his arrest he had been

[20] This irrelevantly volunteered statement was tantamount to a confession of an intention to convert $50,000 into 200,000 quarters and of the impossibility of such a procedure. Hauptmann in no way realized the significance of what he had said and remained unaware of its implication.

circulating ransom money from the box left in his home. That money had been used for living expenses. He insisted he had not taken the gold certificates solely to convert them into other bills. Wilentz now wanted to know why he had deposited money in banks, at the same time circulating money from the box, if he really needed this money for living expenses and did not merely want to change the bills.

Hauptmann said, "Well, this money was laying there and was just handy."

Wilentz continued to point out the inconsistency of having used gold certificates in August and September for living expenses, while depositing silver. Hauptmann offered a lengthy answer. Wilentz asked if he were confused. Hauptmann stated that he was not.

The Attorney General sarcastically implied that a man of his type would not become confused, and Hauptmann fighting back, said, "No. Why should I?"

Hauptmann's wife had not known of his Mount Vernon bank account. He explained it had been used to save for his journey to Germany.

Hauptmann had spent almost $300 of the money in the box. It was his intention to give the Fisch family $12,000 and keep the difference, because Fisch owed him money. He had decided to do so without informing the Fisch family, because there had been no written agreement to record Fisch's debt, and his family would not have believed him. Asked why he had not notified Fisch's family of the money found, Hauptmann insisted he had been about to write at the time of his arrest. His other reason was that he had not received a reply to an earlier letter.

Discussing his preparation for going to Europe, Hauptmann stated, "Oh, that is planned for over a year already."

Wilentz now pointed out that despite all the money in the bank and in his trunk, Hauptmann had sent his mother only about $50 a year.

Hauptmann was again asked about the money in his trunk, how much he had each year, and about withdrawals from it.

Suddenly Wilentz inquired whether, when he read the ransom notes, he had remembered the phrase "was planned for a year already." Asked if that were his manner of speech, the witness

indicated that the phrase was correct and he did not know how else one could say it. The Attorney General supplied him with substitute phrases. Reilly objected, but the Court did not seem to understand his point. Defense counsel persisted in his objection. At one time, when he indicated how questions should be put, objecting that Wilentz' method was incorrect, the Court replied that the cross-examiner must put his own questions and they could not be patterned after the ideas of his adversary. The Court was forced to listen to Reilly's continued objections, and it was finally agreed that the whole record pertaining to these questions be read. The stenographic report was sent for. Meanwhile Wilentz received permission to continue.

He again referred to the defendant's arrest. Hauptmann could not remember stating, when asked why he had not turned in his gold certificates to the Federal Reserve Bank, ". . . I was afraid they would hook me up if I turned it in." He insisted repeatedly that he did not remember. Later he stated that he had not wanted the money in any bank because of his illegal residence in the country.

The court reporter read the testimony requested by Reilly. Defense counsel maintained that it was all confused and the Court told him he could clear it up on redirect examination. Reilly indicated that the jury had already been affected by it and that it might not be possible to counteract the implication. Wilentz, turning to Reilly, graciously stated he was of the opinion that if Reilly should take it up again, the effect would not be lost.

Reilly, equal to the situation, replied, "General, you are always so kind."

Wilentz now reverted to the discussion of the witness' knowledge of the location of the Federal Reserve Bank. Hauptmann persisted that he did not remember the exact question the police had put to him, but again told Wilentz he had been afraid to deposit the gold certificates in the bank because they had been called in a year before; he was in this country illegally, and the money did not belong to him. The Attorney General now examined the defendant as to how he had wrapped up the money in one-thousand-dollar bundles after he found it in the shoe box. Hauptmann remembered there had been fourteen such bundles and two other packages,

each of which contained less than a thousand dollars. Wilentz inquired about the board with the five holes, in which the money was not wrapped.

In July, 1931, Hauptmann had $4,000 in the trunk; when he went to California he put the money in a satchel, took it to his uncle's home in Brooklyn and requested him to take care of it. He did not reveal its contents. Asked where his uncle lived now, Hauptmann said he knew the house, but not the address. On his return he called for the satchel and placed the money again in the trunk; he was afraid to deposit it because his wife might find out about it. The Attorney General forced the witness to admit that when arrested he had no money in the trunk. Hauptmann explained that it had been taken out a long time before.

As Wilentz again discussed the record of the partnership accounts, there was a difference of opinion between witness and counsel as to the meaning and interpretation of numerous items. At times the defendant's answers were not relevant, and when Wilentz pressed for direct answers, interrupting Hauptmann's explanations, Reilly objected that the witness was not being permitted to respond. Reilly and Wilentz argued the point; the Court seldom intervened. Wilentz finally said that when he was finished with his examination of Hauptmann's accounts as recorded in the book and had received the answers to his questions, he would be willing to sit down for an hour and listen without any objection to Hauptmann's explanations. Hauptmann said that Fisch had given him considerable money when they entered into the partnership. Wilentz challenged him to find any note in the book to indicate that Fisch had given him anything besides $2,000. Hauptmann finally had to answer that his books did not show any such notations, then added that if one had Fisch's books one could find it. But Wilentz made him admit that all of the transactions for which he had been responsible were in the book under discussion. He made him repeat time and time again that the book was in his handwriting and contained an accurate account of the partnership. Hauptmann insisted that Fisch had kept the fur accounts and that his entries about them were incomplete; the profits in the fur business amounted to about $1,700. Although Hauptmann claimed that Fisch had given him $15,000 or $16,000, the Attorney General

continued to point out that, according to his record, Fisch had not given him more than $2,000.

Changing his tactics completely, Wilentz finally reverted to the board removed from Hauptmann's closet, and asked if he realized that the address and the telephone number on it had been Condon's as of March, April and May, 1932.

The witness replied, "Yes, you told me so."

Wilentz inquired if he could give any explanation for it and Hauptmann stated that he had already answered that question.

Asked if he could give a better answer, he emphatically said, "No."

Wilentz now exhibited some letters which the witness identified as those he had written to Fisch's family. He identified every page, but denied having underscored certain words in colored pencil, or having made certain shorthand notes found on some. Wilentz allowed him to cross out everything not in his handwriting and then offered the letters in evidence and indicated he would provide a translation of the letters, which were written in German. It was agreed that Hauptmann leave the stand and Professor George Madison Priest of Princeton University read the translation of the letters.[21]

[21] The first letter written by Hauptmann to the brother of Isidor Fisch on May 4th, 1934, referred to a letter he had received from Mr. Fisch informing him of Isidor's death. He expressed sorrow and indicated that Isidor was perhaps his closest friend. He informed him of their partnership in stocks and furs. Hauptmann also requested information as to whether Fisch had left any documents which would indicate that he had storage receipts for furs or a safe-deposit box. Hauptmann stated that he had a list of purchases and sales, but no record of the storehouses Fisch had used. Hauptmann volunteered three procedures for the Fisch family to follow: First, a member of the family could come to the United States, and although it would take a very long time to settle the estate, its value would compensate; secondly, the possibility of engaging attorneys would prove disastrous because they would absorb the value of the estate in legal fees; thirdly, he wished the family to extend the same degree of confidence in him that Isidor had had and allow him to manage the estate.

In a postscript, Hauptmann stated that he had two trunks belonging to Isidor in his apartment, which contained nothing of importance, but if Mr. Fisch wished him to, he would send the trunks to Germany or, as he was leaving with his family for Germany next year, he could bring them over.

The second letter was dated July 8th, 1934, and discussed further business relations with Fisch. Hauptmann indicated that he had received a letter which said Mr. Fisch intended to come to the United States. He therefore wrote that he would hold the two trunks, which were not worth sending.

Hauptmann's examination was resumed and he said that Fisch had apparently been poor. He had lived in one room and had not owned an automobile. Hauptmann's letters to Fisch's family were examined in detail, Wilentz pointing out to the witness inconsistencies in them.

Hauptmann defended himself either by saying, "Why should I explain everything?" or "It wasn't necessary" (to explain).

The Attorney General reviewed anew the defendant's testimony in the Bronx and accused him of not having told the truth. The defendant denied the accusation and explained he had not told untruths, but had not had sufficient time to answer. The Attorney General pointed out the inconsistencies in his testimony then and now, and Reilly objected that most of the questions were extremely repetitive. At one time defense counsel objected to the form of a question and the Court agreed. This discussion hinged on Reilly's objection to Wilentz' intent to prove that Hauptmann had lied to District Attorney Foley about having been convicted of crimes in Germany. Although Hauptmann granted he had lied, counsel continued to argue the legality of the question.

The defendant interrupted the argument, "It was fifteen years ago and overruled."

Excitedly Wilentz asked that he refrain from comment, and the Court instructed Hauptmann to wait until his lawyer would give him a chance to explain.

As the Attorney General turned the witness over to Reilly for redirect examination, the confusion in the courtroom, because of the spectators' conversation and the busied activity of newspaper men, caused Justice Trenchard to call for order.

Defense counsel brought out that Hauptmann had worked on April 1st and 2nd and received $6.67. The timekeeper's record and payroll were accepted in evidence. Hauptmann insisted he had informed Police Commissioner Ryan of the $14,000 in his garage, and had admitted to District Attorney Foley that the board was his, but that he was not able to discern the handwriting. Reilly reviewed the defendant's examination by Foley with particular reference to what Hauptmann had done on March 1, 1932.

Hauptmann declared, ". . . If it wouldn't be so long ago I would

probably have ten to twenty witnesses that I worked." Wilentz asked that his statement be stricken out and the Court agreed, censuring the witness. Hauptmann, flushed and ill-at-ease, apologized to the Court, and Reilly mollified the situation by receiving permission to defer this phase of examination until the following day.

Hauptmann then testified that Fisch had informed him of his investment of $10,000 in the Knickerbocker Pie Baking Company; after his death Hauptmann discovered that the business had ceased to exist two years before he had been told of it.

Defense counsel inquired, "So he lied to you there, didn't he?" When Hauptmann replied in the affirmative, Wilentz objected. Reilly sarcastically maintained that the Attorney General had asked the defendant whether he lied. The objection was sustained by the Court.

Hauptmann affirmed that Fisch had never informed him of a debt of thousands of dollars to Mrs. Hile; he had learned of it after Fisch's death. Hauptmann did not consider it a crime to have hidden his financial transactions from his wife. Hauptmann agreed with the defense counsel's implication that although Fisch had lived in one room, he might have had an apartment elsewhere. Hauptmann had personal letters from Fisch at the time of his arrest and expressed the wish that they be produced in Court. Wilentz agreed to ". . . produce whatever letters there are from Fisch." Hauptmann thought the police had taken them. Greatly relieved, the defendant left the witness stand at the end of a very severe day.

On January 30th, Reilly resumed his examination and reviewed Hauptmann's registration at an employment agency and his having been sent to the Majestic Apartments on March 1st. To Reilly's question, Hauptmann declared he was right-handed. When Reilly requested of the Attorney General Fisch's letters to the defendant, Wilentz said he had been told there had been only one post card.

Hauptmann explained that in December, while in jail, he had requested a German-English dictionary because he was reading various books in English and could not understand some of the words. He maintained that he had received four letters from Fisch but was not certain they were in his home at the time of his arrest, although letters from Isidor's brother were all there at the time.

He admitted having passed twelve to fifteen bills from the time he had found the money until his arrest.

Defense counsel reviewed the ground previously covered by the Attorney General, and summed up by stating that during the time the defendant had spent the ten or twelve bills, he had done everything openly. When he had changed the bill at the gasoline station, he made no effort to hide his license plates or anything else. The defendant denied ever having given "Lindbergh ransom money" to his brokers.

After discussing the contents of his letters to Fisch's family, defense counsel directed Hauptmann's attention to the plane admitted in evidence which he maintained he had not used since 1928. He revealed that he had had two other iron planes which he always used, one at home and the other on his job. He was now allowed to step down from the witness chair and open his tool chest; as he carefully examined it, he indicated that they were not in it. He also insisted that some chisels were missing.

Wilentz, on re-cross examination, seemed suspicious of the fact that Hauptmann had made purchases with ransom bills far away from his home, but Hauptmann always offered adequate reasons.

Wilentz next produced a photostatic copy of the payroll of the Majestic Apartments and went through the pages with the defendant until they came to the week ending March 31st, 1932. He made Hauptmann read his name, with the notation that he had worked eleven days at the rate of $100 a month.

Again Wilentz referred to his examination in the Bronx, with the particular reference to the handwriting on the closet board. He was confusing Hauptmann, who registered his confusion by looking away from him for the first time. Wilentz called his attention to this, and Reilly objected, considering the Attorney General's remarks as an inference that the witness was looking at his counsel. Wilentz denied the inference, and the Court now ruled that in view of the Attorney General's denial, it was proper for him to direct Hauptmann's attention to the board, and request him not to look at other things in the courtroom. The examination of the writing on the board was exceedingly repetitious and Reilly, as though censuring the Court who had just ruled against him, rose to his feet to indicate the repetitive nature of the examination. The

Court agreed, but ruled that if Wilentz were of the opinion that the "evidence of this witness is in a state of confusion with respect to certain particular things, he may ask the questions necessary to clear up that confusion and that, I assume, he is now trying to do."

In answer to the Attorney General's questions in reference to the Bronx testimony about the board, Hauptmann said he had agreed to some points then because his physical condition was so poor, he could not think.

Wilentz sarcastically inquired, ". . . You have a very good mind, haven't you?"

The witness dejectedly replied, "Well, I don't think so, not so good." [22] But Wilentz remarked, "Oh, you really do think so, don't you?"

Hauptmann, disheartened but controlled, just looked at him and made no reply.

The Attorney General snapped, "That is all," turned his back to the witness and stepped away. Hauptmann jumped up and quickly walked to his chair.

ANNA HAUPTMANN

Anna Hauptmann, somewhat flushed and nervous, was examined by Reilly. After she had adjusted herself in the chair, he politely requested her to raise her voice. She came to the United States in January, 1924, and a few days later went to work as a housemaid in New York City. Because of the noise and confusion in the courtroom, no one could hear her, and Reilly called the Court's attention to this condition. Everyone suddenly realized that whereas the courtroom had not been so crowded before, because of strict orders, it was now unusually crowded. People were standing on tables,

[22] Just prior to the termination of his cross-examination, Wilentz stressed the extreme importance of the testimony of the handwriting on the closet board and practically proved that it was strikingly contradictory to Hauptmann's statements given immediately after his arrest to District Attorney Foley in the Bronx. Hauptmann's explanation for the Bronx statement was that because of physical weakness, he had not been able to think clearly. Wilentz, picking up this point, subtly threatened, "Well, I say you weren't thinking," implying that as a result of his failure to use his mental ability then, he had convicted himself.

others were sitting on the radiators. Justice Trenchard ordered all standees to leave the courtroom.

Mrs. Hauptmann met her husband about three months after her arrival in the United States and was married in October, 1925. While working, she made $50 a month for the first year and $55 a month for the second. Her husband told her nothing about his entry into this country. She corroborated his testimony about her trips to Germany, and claimed that in 1928 when she had taken Mrs. Achenbach's little girl with her she had not been reimbursed for additional expenses. On her travels in 1932 she purchased some silverware.

Justice Trenchard now leaned over toward her and asked what year it was that she went to Europe. She said it was in July, 1932. Reilly then elicited that while in Germany Mrs. Hauptmann, accompanied by her mother-in-law, visited an attorney to discuss the possibility of Hauptmann's return there and was told that he should wait a few years.

She insisted that her husband had called for her at about 7 P.M. on March 1st, 1932, and waited for her until about 9:30 P.M., at which time they went directly home. She corroborated previous testimony in regard to April 2nd, 1932, the regular Saturday musicale, and the birthday party on November 26th, 1933. She considered Mrs. Henckle a personal friend, and denied any suspicion of her husband's relationship with her. She first met Fisch after her return from Europe. Reilly asked about the party given for Fisch at her home prior to his European trip. She did not see him bring any parcels to the house that night because she was in another room, but a week or so prior to that, he brought a suitcase, some cardboard boxes of furs, and a valise filled with books.

Mrs. Hauptmann then described the broom closet and told how it frequently became wet. She knew nothing about a shoe box or a cardboard box having been on the top shelf; she never used that particular shelf because it was beyond her reach.

Questioned about her own income, she said that her earnings in the United States had been practically seven thousand dollars and she had saved most of it. When she expressed implicit faith in her husband and his trust in her, Wilentz objected to her opinion of

her husband's trust. Reilly then reframed his question and asked if she trusted her husband.

Surprised, she inquired, "Who shouldn't trust a husband?"

Reilly facetiously replied, "I don't know. That speaks well for some of us."

The simplicity of the woman, coupled with her unhesitating expression of confidence in her husband, contrasted sharply with his doubtful opinion of her loyalty, and created perceptible sympathy for her.

Wilentz in his cross-examination immediately discussed the things which Fisch had left in her apartment. In his inquiry into the money she had earned, he very cleverly tried to convey sympathy, indicating that he realized she had worked very hard. She testified that she and her husband were, nevertheless, very happy. After establishing rapport, Wilentz again inquired into Fisch's belongings, but she was unable to enumerate his possessions at the time the police searched the house.

Wilentz, putting his question carefully, asked if she had ever seen the shoe box which must have been on the top shelf from December, 1933, until September, 1934. She replied she had seen nothing, because the shelf was so high she could not reach it. Wilentz met her reply by showing her a picture of the broom closet with a hook on the open door upon which her apron was hanging. Mrs. Hauptmann admitted that she could place her apron on that hook with ease. Wilentz insisted that if the door were open and one stood a few feet away from the closet, one could see everything on the top shelf.

She cleaned the closet and shelves almost every week, but never the top shelf. Wilentz seemed doubtful, but the witness persisted that she did not use it, admitting, however, that she kept some shelf trimming there. She insisted that she would have had to stand on her toes and reach up in order to touch it. She soon admitted that, besides the trimming, she had had a tobacco box there in which she kept soap coupons. Mrs. Hauptmann fought this testimony rather pitifully as she said that she would first put the soap wrappers in the kitchen drawer, and after having gathered many of them, would cut the coupons, take the box down and put them in.

She said she had done this perhaps once every three or four months. Wilentz then said that from the time Fisch had left for Europe until Hauptmann's arrest, she must have taken the box down two or three times. The trap was set. She insisted that she had not seen a shoe box on that shelf, but no sooner had she said that, than she maintained she had not looked. She also admitted she had thrown some discarded cleaning rags and useless curtain rods up there.

Wilentz inquired about her Bronx testimony.

At that time, asked about March 1st, she had stated to Inspector Bruckman, "That's too far back, I can't remember whether my husband was with me or not . . ."

The Attorney General discussed the length of time she had worked, and Mrs. Hauptmann said she stopped in the middle of December, 1932. Wilentz suggested she had stopped working on her husband's advice, but she said she thought she had worked long enough, and Wilentz agreed. After divers questions, he discussed the investigation of her home by the police, and she said she had been surprised at the discovery of the money and had not been aware it was hidden in the garage. As he finished, Wilentz thanked her graciously.

The wave of sympathy which had swelled toward her reached its climax when, at the close of her testimony, she was utterly ignored by defense attorneys. A playwright in constructing a play would never have permitted the wife of the defendant to pass so completely into obscurity, and the spectators were keen to sense the pathos of the situation.

* * *

Mr. Manley was called but was not in the courtroom, and Reilly asked the Court if one of the troopers would be allowed to look for him. Permission was granted, and while waiting for him, Pope offered in evidence the United States Department of Agriculture meterological survey which had recorded on August 12th a precipitation of .77 inches of rain in New York City. This was offered because Hauptmann had testified that on a Sunday, in the middle of August, 1932, there had been heavy showers and the broom closet had become wet.

ELVERT CARLSTROM

It was impossible to get Manley, and Reilly called Elvert Carlstrom who, speaking in a low voice, testified that he was a gardener, had been in the United States approximately six years, and had at one time lived within five-minutes' walk of Fredericksen's bakery. March 1st, 1932, was his birthday and he clearly remembered it. Reilly offered a card issued by the United States Department of Labor confirming his birthday. On March 1st, 1932, he was working for Mr. Christiansen in Dunellen, New Jersey, as a caretaker. That evening he left Dunellen at about five-forty-five to go to a motion picture in Plainfield, but went instead to New York. He arrived at the Fredericksen bakery at 8:30 P.M. and remained for about twenty minutes. Asked whether he had seen anybody there whom he now saw in the courtroom, the witness pointed to Hauptmann. Hauptmann stood up, and the witness positively identified him as the man he had seen seated at a front table in the Fredericksen bakery at 8:30 P.M. At that time, he was not aware that the man was Mrs. Hauptmann's husband. Carlstrom was not Hauptmann's friend but knew his wife, and said he did not know Reilly or other members of defense counsel.

Under cross-examination, Wilentz referred to Carlstrom's method of identifying Hauptmann in the courtroom and aggressively inquired why he pointed instead of mentioning his name. The witness tried to evade it by explaining that when he had seen Hauptmann he did not know his name.

But Wilentz declared he knew the name now and inquired, "Was that an act?" Carlstrom flushed, but in other respects was very calm.

After a denial, Wilentz again asked if anyone had told him to point to Hauptmann and say, "That man." The accusation was denied.

The witness finally said he had seen four or five people in the bakery. He was certain he remembered the defendant because Hauptmann had laughed at him, and "I got mad at him and when I got mad at somebody then I remember the face."

Asked to describe the man's face, the witness was evasive, hesitated and looked at Hauptmann until Wilentz requested him to look at the examiner. Carlstrom first said the man had had an oval face and then indicated that he meant straight; the chin he thought was sharp, and the eyes blue and more deeply set than Wilentz'. Asked to compare them with his own, he snappily replied he could not see his own.

Wilentz discussed newspaper references to the Lindbergh case, and the witness stated that although he could not read English very well, he could recognize pictures. He had not listened to the radio because he had none. Wilentz described Hauptmann's pictures in the newspapers at the time of his arrest, and the witness admitted having seen most of them. It was brought out that there had been numerous pictures of Hauptmann prior to his appearance in the Bronx court, but the witness said he had not identified him from those; he had not looked at them so carefully. Wilentz then asked when he had come to the United States, where he lived and for whom he worked. It appeared that he had held jobs for a very short time. In May, 1931, Carlstrom had lived with a family named Larsen on One Hundred and Thirty-eighth Street, but he did not know the address; the Larsens had moved from there to a home in the Bronx and he had gone with them. The house was on Seton Avenue; he did not remember the number; it was an apartment house, and he lived on the second floor. He did not know how many floors there were, but thought it a brick house where two families lived on a floor.

Carlstrom's use of the word "guess" during this phase of the examination caused Wilentz to inquire, ". . . Do you guess you saw Hauptmann in the Bakery that night?"

He emphatically replied, "No, I don't."

In a lengthy examination, Wilentz stressed Carlstrom's weakness of memory. In the summer of 1931, he worked for the Reliance Company for two or three days, but did not know anybody there. At one time Carlstrom just staring rigidly at Wilentz, gave the impression that he was not thinking, or, if he were, that his thoughts were foreign to the courtroom.

When Wilentz wanted to know how many children there were in the Larsen family, Carlstrom inquired "Where I was living?"

Wilentz, surprised, asked what he thought he was talking about, and Carlstrom admitted being mixed up.

Wilentz once again asked him to describe his visit to New York on March 1st. The witness said he had gone to the Bronx to see a girl who lived two doors away from the Fredericksen bakery. He had been very fond of this girl, whose first name was Esther; at first he refused to reveal her last name, then admitted he did not know it; he explained weakly that he had met her only once or twice.

Wilentz heightened the effect of the weakness of this testimony by asking for a five-minute recess. Reilly, aware of the situation, asked if he had finished.

The Attorney General strategically increased Reilly's anxiety by declaring, "No. I am not going to finish for a while."

Following recess, Wilentz emphasized Carlstrom's defective memory in regard to his usual habits and his activities on March 1st. His answers were evasive, and so confused that Justice Trenchard was forced to rule:

> The witness's testimony has been of such a wavering nature that it does seem as if the Attorney General ought to be permitted a reasonable latitude in testing the accuracy of such testimony as he has given.

Despite this impression, Carlstrom maintained, on cross- and redirect examination, his certainty of Hauptmann's presence in the Fredericksen bakery at eight-thirty on the evening of March 1st.

LOUIS KISS

Louis Kiss, next examined by Reilly, gave New York City as his residence. He spoke softly and appeared somewhat nervous. He was requested to speak louder. He identified himself as "A silk painter artist," causing Reilly to exclaim, "A what?" and the witness repeated his vocation.

The Court inquired, "What is that? I didn't get it."

The witness repeated it again and now Wilentz exclaimed, "Silk painter?" after which the Court again inquired, "Silk painter?"

The witness explained, "Yes, sir, painting on silk, wall decoration."

Responding to Wilentz' inquiry, Kiss emphatically declared that he was an artist. He had volunteered the information to Reilly that he had recognized Hauptmann from a newspaper photograph as the man he had seen in a Bronx bakery on March 1st, 1932, at eight-fifteen. Until a few days before his appearance in court, he had not known it was Fredericksen's bakery. He went there for some coffee after having got lost in the Bronx. He looked at his watch as he entered. He could not state how many people were in the bakery. As he was eating, a police dog ran in, followed by a man who told the waitress in German that "Somebody want to take away the dog." He insisted that he saw the man clearly and that the incident impressed itself upon him because the man spoke in German. He maintained that he now saw that same man in the courtroom, and pointed to the defendant. As Hauptmann stood up, the witness formally identified him as the man who had come into Fredericksen's bakery. Kiss was positive of the date as having been a week after his child was taken to Bellevue Hospital on Washington's Birthday.

During the following recess, State officials secretly checked with Bellevue Hospital the date of the Kiss child's admission. Under cross-examination by Wilentz, the witness testified that when he saw the defendant's picture in 1934, although the face seemed familiar, he was not able to place it. The Attorney General examined Kiss in detail on the positions he had occupied since he came to the United States from Hungary in 1922. Then Wilentz began to attack his memory in regard to his previous assertion that he remembered March 1st because it had been exactly a week after the removal of his child to the hospital. The discussion approached the dramatic as Wilentz pointed out that 1932 was a leap year and that a week from Washington's Birthday, February 22nd, would have been February 29th. Fisher objected, saying that the child was taken at one o'clock in the morning of February 23rd. Wilentz reviewed much of Kiss' direct testimony concerning Fredericksen's bakery and how he had got to the Bronx. He now forced him

to admit that he had been engaged in the manufacture of rum and whiskey which he knew to be illegal, and had sold it to some of his friends.

When Wilentz asked the price of his rum and whiskey and whether he had added the carfare to the cost, Kiss was unable to see the humor of the question and earnestly replied, "No, sir; nope, I never did that."

He had delivered two bottles of rum to Leo Singer on the night of March 1st, and arrived there at about nine o'clock. Wilentz asked him if he had drunk that night. Kiss indicated that he never drank rum at night and then admitted that he drank it in the morning; he drank wine at night. He could not say when he had delivered rum to Singer, or sold it to others, prior to, or subsequent to, March 1st.

AUGUST VAN HENKE

August Van Henke, next examined by Reilly, lived in the Bronx on March 1st, 1932. Prior to that, he had owned a police dog for a couple of years, but in the middle of February, 1932, he lost it. On the evening of March 1st, he remembered having been at a gasoline station on the Boston Post Road near Dickerts Park. When asked if his attention had been attracted by anything, he stated:

> Soon I get on the gas station with the car, I see a dog there on that street what runs west. I get out of the car, left the car on the station and I went out the car, followed the dog, went after that dog.
>
> As soon as I pass the station, the gas station, a man stepped up to me and asked me, he says, "Is that your dog?" He says, "It looks like my dog," or you know what he said, "No," I said, "if that is your dog," I says, "it is my dog. If you claim it, I will have you arrested." . . .

At first he had thought the dog his but, on inspection, changed his mind. He was certain that the defendant was the man to whom he had talked, in German. They exchanged names and the man gave his name as Hauptmann. He was then requested to come to the bakery to prove that the dog belonged to the baker, but realizing his initial error, he did not do so. He drove on, and four days later found his dog. He was able to fix the date definitely

because he heard of the kidnaping of the Lindbergh baby that night. After Hauptmann's arrest he wrote to Mr. Fawcett, previous defense counsel, that he knew something about the man arrested. The letter contained practically the same information he had just given.

In his cross-examination, Wilentz elicited that the witness had used several assumed names during his residence in the United States and had run a speakeasy which had been raided many times. The Attorney General accused him of having run "a bed house" where "blacks and whites mingle." The witness vehemently denied the accusation.

LOU HARDING

Lou Harding, a young man certain of his ground, but unkempt and disheveled, was examined by Reilly. He had lived in Trenton with his family since 1923. In February, 1932, he was repairing the sidewalk on Washington Road in Princeton for the social service agency. On the afternoon of March 1st, he was alongside the road when two people in an automobile stopped and asked directions to the Lindbergh estate. He directed them to the best of his knowledge, speaking to them for about five minutes; neither person in the automobile was the defendant. In it, he saw a ladder and a brown pasteboard box three feet long. Early in the morning of March 2nd, he was questioned by the township police of Princeton and taken to the Lindbergh estate. He saw Colonel Lindbergh and shook hands with him; he saw the same ladder beside the house that he had seen in the automobile. He told the same story then that he now told.

Shown the ladder, he said, "It was something kind of like that . . ."

"Reilly, to reinforce the value of his testimony, elicited that the witness lived in Trenton at that time, and gave his address to the State Police on March 2nd; he had not been subpoenaed by the State. Harding had written to the defense attorneys.

When Reilly inquired, "And is that why you are here?" he replied, "That's why I am here."

Wilentz took the witness for cross-examination, and it became evident immediately that there was some degree of hostility between them. Harding was excessively aggressive in his replies, and at times somewhat evasive. He usually referred to police officers as "guys." The Attorney General slowly took him through an examination which involved past employment and residences and elicited that he had been convicted of crimes, one of which had been "carnal abuse." Throughout this discussion, although he admitted the convictions, Harding was somewhat hesitant and vague. This attitude persisted as he was questioned about the ladder.

JOHN TRENDLEY

John Trendley, an examiner of disputed documents, testified that for the past forty years he had been engaged in over three hundred cases involving questioned documents, some of which had been notorious.

Reilly addressed the Court: "I understand that the State does not concede the qualifications of this witness."

Lanigan, given the opportunity to ascertain the witness' qualifications, sought to impress his personality by an aggressive approach. In his attack, he brought out that Trendley had given questionable testimony in a small number of cases, after which he formally objected that the witness was not qualified.

The Court finally ruled:

> Well, gentlemen, I now have this to say: It seems to me that the mere fact that this man admits having made a mistake and the mere fact that at times he gave curbstone opinions which he afterward corrected and testimony along that line, does not justify me in disqualifying him as an expert in view of his testimony as to his experience as an expert. As far as the value and weight that will be given to his testimony, that is a thing with which I am not presently concerned . . .

Using the charts which the State's handwriting experts prepared, Reilly proceeded to examine Trendley. The witness maintained he had studied these charts carefully and had been present during the testimony of the State's handwriting witnesses. Asked if he had ever discussed the exhibits with other handwriting experts,

Lanigan objected. Although the Court sustained him, there was a question in the minds of the observers as to the purpose of the objection, despite its legality.[23] After a few more questions the day's session was adjourned.

On February 1st, Reilly asked Trendley if he had studied all the exhibits in the case, and said ". . . As a result of your study and examination of the ransom notes and the Hauptmann request writings, are you in a position to render an opinion as to whether or not Hauptmann, this defendant, wrote the ransom notes?"

The slowly deliberate answer came, "In my opinion he did not."

Reilly proved his skill as an examiner of experts by not following the usual custom of asking the witness to give his reasons. He presented his questions in the form, more or less, of a conclusion, thus allowing the witness to answer in the negative, affirmative, or create doubt. It was one of the few instances in examination of an expert where this procedure was followed. By this method the witness was able positively and firmly to disagree with the State's handwriting experts. Reilly now obtained the information that it was possible to distort handwriting in photography and that a different slant could be secured, depending upon the way the negative was printed; a different effect could be produced by the shading of the negative during printing; the lines could be shortened or lengthened by the angle of the camera.

In his cross-examination, Lanigan reviewed the testimony of the State's handwriting experts; he stressed their conclusions, but the witness continued to disagree in a coldly matter-of-fact manner.

Trendley flatly refused to accept the misspelled words in the request writing as final proof of identification, saying, ". . . I wouldn't take anything written in a police station." He always took it for granted that misspelled words in request writings were due to police dictation.

[23] Although Lanigan's objection was legal, he cut off the source of information, which would have been to the State's advantage. He was aware of the State's knowledge that at a conference of handwriting experts called by the defense, certain experts retired from the case because they could not testify that Hauptmann did not write the ransom notes. If Lanigan had allowed the question, he could have obtained the names of the experts and utilized their opinions to the disadvantage of the defense.

He disagreed with the contentions of the State's experts, and maintained that the first ransom note and the first four lines of the second had been written with the left hand.

At one time when Lanigan foolishly asked why he had not prepared his own charts, Trendley retorted, "How could we when you wouldn't surrender nothing? . . . You didn't even want to let me look at the original."

On redirect examination, Reilly had the witness go to the charts and illustrate his reasons for not believing that Hauptmann had written the ransom notes.

PETER H. SOMMER

Peter H. Sommer, examined by Reilly, assumed a comfortable position and conveyed the impression of an experienced witness. He identified himself as a fingerprint expert, not now engaged in that profession. He remembered March 1st, 1932, because in the early evening he was in Fairview, New Jersey, giving instruction in fingerprinting to a police officer. After his lecture, he took a trolley car to the Forty-second Street Ferry on the Weehawken side of the Hudson River, arrived there between 12 and 12:30 A.M. and boarded the ferry for New York.

The following questions and answers were very important:

Q. Did you notice any people that were on the trolley car that were also on the ferry boat? A. I did.

Q. Describe the people that you saw on the trolley car who were afterward on the ferry boat with you. A. They was on the ferry boat, on the car coming down, then they was on the ferry boat.

Q. Describe them. A. One was, I would say, was about five foot nine; the other was about five foot four. One was short. They set directly in front of me smoking cigarettes, so being as they were smoking I lit a cigarette.

Q. You didn't talk to them? A. No, sir.

Q. Did you get a good look at them? A. A fairly good look at them; yes, sir.

Q. Do you think you would be able to identify the photograph of one of them? A. I think so.

Q. I show you a picture and ask you whether or not that resembles

the man, or is that the man, one of the men that you saw in the trolley car? A. No, but I saw this man on the ferry boat.

The witness, sure of himself, testified that within a few minutes after he had left the trolley car and boarded the ferry boat, he saw the man, whom he identified from the photograph; he sat "across the way from him" and watched him for about eight or ten minutes. The illumination was good; he had never seen this man before. In New York, both men left the boat. He proceeded to the Forty-second Street crosstown car; it was between twelve-thirty and twelve-forty-five. He observed the two men assist a lady with a baby onto the car and he followed.

Reilly showed him a photograph and Sommer said, "I would say that resembles the woman very strongly."

Q. Now describe her actions in the trolley car with the baby? A. Why, she was holding the baby, and from the time she got on the trolley car she appeared very nervous, she had the baby this way [illustrating]; she always had one foot [witness indicates by holding his arm out] and as the car slowed up or stopped, she just appeared as though she was ready to jump out.

The baby was wrapped in a blanket, and occasionally the woman lifted the baby up. Once the blanket slipped, and he noticed that the baby wore a "one-piece nighty." The baby was blond and perhaps two years old. On March 2nd, he reported the incident to Detective Mulaney of the Eighty-first Precinct, at Ralph and Quincy Streets, Brooklyn. A few days later he wrote a letter to the State Police at Trenton, but never received an answer. The direct examination was completed with the witness' declaration that he was in court in the interest of justice. The ease with which he answered questions and the certainty of his replies gave rise to a discussion of the value of his testimony.

Wilentz started his cross-examination where Reilly left off. When he inquired if Sommer had written to Mr. Fawcett, Hauptmann's first attorney, he received a negative reply.

Wilentz, always a master of sarcasm, inquired, "You were just as keenly interested in justice in September, 1934, as you are today?"

The witness, self-assured, replied, "Yes, sir."

Wilentz, waxing aggressive, forced the reply that in September 1934, the witness saw the pictures of the man arrested in connection with the Lindbergh crime. He made Sommer admit that he had not volunteered testimony until two weeks ago, after the trial had already started. Wilentz continued his examination of the witness' statements pertaining to the men he had seen on the ferry boat and trolley cars. The witness became confused, admitted contradictions, and the points at issue were not clarified, although the Court at one time intervened for that purpose.

* * *

When court convened on February 4th, Justice Trenchard declared:

. . . I very much regret to be informed that there have been taken in this courtroom some movie and talking pictures of the trial and, of course, it is well understood that that was done in defiance of the orders of the Court, and I think it is equally well understood that it must have been done secretly and by methods that are not commonly understood.

Now, this subject matter will be investigated and my only purpose in speaking of it now at this time is to caution the officers that they will, by reason of the secret way in which these pictures are taken, they will have to be especially vigilant in seeing to it that these contrivances, designed or making possible the taking of these movies, movie pictures and talking pictures, that those contrivances be excluded from the courtroom, and the officers will have to be very diligent, and maybe very ingenious, to break up this practice. There is the problem and it is the problem of the officers to do the best they can to prevent these violations against the orders of the Court. All such instrumentalities are to be excluded from the courtroom; it doesn't make any difference who undertakes to bring them in. The agents and employees of these companies that are producing these pictures in violation of the orders of the Court will be excluded from the courtroom . . .

* * *

Wilentz resumed with a discussion of the men who were on the ferry boat and trolley cars, and this resulted in greater confusion.

In the midst of this confusion, Wilentz fairly jolted the witness: "You are a professional witness, aren't you, Mr. Sommer?"

The attempted replies were evasive and Wilentz insisted on a direct answer, "Don't get weak now, just talk right up. Are you not a professional witness?"

Pope objected, and asked that the term be defined, as he had never heard it.

Wilentz generously offered to change the question. He now asked if the witness did not testify in court "for a price." Sommer replied that he had not discussed any price, but Wilentz wanted to know if he had not on occasions testified "for a price, for a reward, for money?" The witness admitted that he had testified in two cases. Wilentz, attacking his credibility, proved that he had testified in more than two cases; in one he had worked for a detective agency representing the defense, and then testified for the State; in another, there had been much discussion with counsel about the fee he was to receive for his testimony.

On redirect examination Reilly had the witness repeat some of his previous testimony. Sommer now added that Joseph Dutt and Carl Joerg had accompanied him on March 2nd, 1932, to the police station where he reported the events of the evening of March 1st.

Under re-cross-examination Wilentz—who had previously showed him a picture of Isidor Fisch whom he identified as one of the short men he had seen on March 1st, 1932—asked when he had seen Fisch's photograph in the newspapers. The witness was vague, but willingly admitted he had seen that photograph prior to January 1st, 1934.

Asked if there were "no question about that," the witness strongly affirmed, "No question."

Wilentz once again jolted Sommer, who was now growing uncomfortable: "Why, don't you know that the picture of that man never appeared in any newspaper in this world until after September, 1934?"

The witness then tried to state that he did not know just when, but thought it was around the time of Hauptmann's arrest that he saw it. He would not say whether it was before or after. Wilentz then showed him a picture of a woman whose hair was disheveled and covered a good bit of her face. Sommer thought she looked

somewhat like the woman whom he had seen on March 1st, but Wilentz could not get him to make a definite identification.

In examining defense witnesses, Wilentz cultivated the habit, when he could not get the witness to be specific, of saying, "You won't say yes and you won't say no." After the sentence had been used a few times it tended to discredit the witness. It became popular outside the courtroom and was taken up by reporters in casting reflection upon the testimony of a witness.

When Wilentz now used the sentence to characterize Sommer, Reilly, exasperated, jumped to his feet and stated, "I object to that question of his as a newspaper headline, and I ask that the question be asked of him, what is his answer. The question 'You won't say yes and you won't say no,' is objectionable."

Wilentz cleverly declared to the Court, "May I say to Mr. Reilly, if your Honor please, through your Honor, that I think it comes with poor grace from him, talking about newspaper headlines."

The Court, equal to such situations, calmly stated, "Well, you have put a question and I think you are entitled to an answer."

Wilentz, more effectively than ever, continued to use the objectionable sentence in regard to the identification of photographs.

A very short redirect and re-cross-examination elicited nothing further of importance.

SEBASTIAN BENJAMIN LUPICA

Sebastian Benjamin Lupica, examined by Fisher, was living with his parents in Hopewell in March, 1932, about one mile north of the Lindbergh estate on the same road. He attended Princeton Preparatory School, and drove an automobile to and from school. He had been under subpoena by the State of New Jersey and appeared as a witness for the State in the Grand Jury proceeding.

On the late afternoon of March 1st, 1932, he had stopped at his letter box at the gate-house of the Lindbergh estate. As he began to read his mail, an automobile passed him and stopped a few feet down the road. Lupica then got into his automobile and drove home. As he passed the parked automobile, he saw two sections of a ladder in it and only one man, who "had a dark coat on,

black, dark fedora hat, was from 35 to 40 years old . . . And he had thin features . . . he didn't look like a foreigner . . . He looked like a city chap." On the morning of March 2nd, he reported this incident to police authorities. The automobile he had seen was a 1929 Dodge. That same night in South's garage in Princeton, he picked out a green automobile of the same model. He was accompanied by three or four State Troopers, who had gone from one garage to another but had not found another automobile of that type. The color, however, of the automobile he saw on March 1st was black or dark blue, not green. In his statement to the New Jersey police on March 2nd, Lupica had said that the automobile had a New Jersey license, with the letter "L," which designated Mercer County, New Jersey.

Fisher now directed the examination to an article in the *Daily Mirror* of October 3, 1934, in which the witness was misquoted about the identification of the person he had seen in the automobile on March 1st, 1932. He had written to the city editor, and the second article corrected the error.

Fisher slowly inquired, "Have you at any time said to anybody that you can definitely recognize the defendant Hauptmann as the man you saw in that car?"

There was an emphatic "No."

Lupica said that on the day rumor had it that the State would rest, he asked Captain Lamb whether the State would need him. Lamb had replied that "they had enough positive men."

The witness tried to give more of the conversation, but Fisher sarcastically and elatedly interrupted, "Some more positive than you, did he tell you?"

The witness replied, "Yes."

Fisher elicited that Lupica had been close to the automobile and the man.

He said, "And you now say that the man you saw in that car you can't identify as Hauptmann, that he was driving a dark blue or black Dodge 1929 sedan, and that that car bore a Mercer County, New Jersey, license, is that correct?"

Lupica answered, "Yes, sir."

Fisher got the witness to testify that the ladder in the courtroom was the same that he saw at the Lindbergh house the night he was

there, and that it looked like part of the ladder he saw in the automobile on the afternoon of March 1st, 1932.[24]

Wilentz in rapid cross-examination brought out that there was no gang in the automobile, only one man; there was a ladder in the "dark Dodge." Lupica tried to indicate that he had originally said black or dark blue, but the police recorded it as "dark." He admitted that he had had an opportunity to glance at Hauptmann's automobile, but would not say it was a 1929 Dodge. What followed was startling:

Q. Now, Mr. Fisher has asked you about the statement that you gave to a newspaper? A. That's right.

Q. You took money for the statement, didn't you? A. I got money after, about two weeks after I saw you.

Q. But you gave them a statement and were paid for it, isn't that so? A. I was—

Q. Please answer the question. Didn't you get paid for the statement you gave them? A. Now, look—

Q. Will you do me the kindness, Mr. Lupica? A. Yes.

Q. You are a Princeton student? A. Yes.

Q. And it is a simple question. A. All right.

Q. Did you get paid for the statement you gave the *Daily Mirror*? A. I got paid for those two articles, yes.

Q. All right, sir, yes, sir.

Mr. Fisher: Find out how much.

A. But it wasn't my statement.

Mr. Wilentz: I will examine this witness if you don't mind.

Q. Then there appeared an article in the *Daily Mirror* which you talked about and in which you said "by Ben Lupica"? A. That's right.

Q. And the very first sentence was, was it not, "I saw Bruno Richard

[24] Fisher's tactics at this point in regard to the ladder occasioned extreme surprise, as the defense had hitherto fought not only its introduction in evidence but maintained that the ladder was not in its original condition and even had gone so far as to insinuate that it may have been a "planted" piece of evidence. Thus when Fisher at this point had Lupica explicitly say that the ladder was not only the same he had seen in the "dark Dodge" the day of the crime and the following day on the Lindbergh estate and the one he now saw in the courtroom, he proved the State's contention and completely destroyed one of the main props of the defense.

Hauptmann for an instant in the courtroom—" That's the second one. Let me give you the first one first. "By Ben Lupica," that's the one Mr. Fisher spoke about, October 3rd: "Bruno Richard Hauptmann is the same man that I saw at the foot of the lane leading to the Lindbergh home only a few hours before poor little baby Lindbergh was killed and murdered," that's what appeared in that article? A. That's right.

Q. He was driving a black Dodge sedan, had a ladder inside the car? A. Right.

Q. Yes, that morning it was I sent for you? A. Right.

Q. And you came to the office of the Attorney General? A. Yes.

Q. And do you remember the Attorney General saying, "what do you mean by saying you identified Hauptmann" and you couldn't tell the police you remembered positively? A. Yes.

Q. And didn't the Attorney General warn you not to give any further statements to the newspapers? A. Right.

Q. And that all we wanted was the truth? A. Yes.

Fisher: I object to the question. I don't see what the conversation with the Attorney General has to do with it. It is not competent testimony here. It may be some fatherly advice from the Attorney General.

Wilentz: Maybe fatherly advice from the defense might have helped just as much . . . And you said then, did you not, to the Attorney General in the presence of Prosecutor Hauck and five or six other people that the man you saw in the courtroom in the Bronx, Hauptmann, that the man you saw on the night of March the 1st resembled Hauptmann? A. That Mr. Hauptmann has a resemblance to him.

Q. Yes. Didn't you say so? A. [No answer.]

Q. And you have always said that he resembled Hauptmann, haven't you? A. Yes, it is the truth.

Q. And you say so today, don't you, Ben? A. Yes.

Q. You want to tell the truth, don't you? A. Absolutely.

Q. Now when you went to see Hauptmann in the Bronx, at the time you made the statement that the man you saw with the ladder, in a car, all alone, looked like Hauptmann, you made it for a newspaper first, didn't you? A. Well, as best as I could under the circumstances, coming up to him, it was a resemblance.

Q. Yes. But what I mean is when you made the statement about the resemblance— A. Yes.

Q. You made it first to the newspapers when you wanted to correct their first story. A. Right.

Q. Yes. No policeman told you to say he resembled him, did he? A. No.

Q. Of your own free will and according to your conscience and to the best of your recollection? A. That is right.

Q. You told everybody in the world that the man that you saw on March the 1st in an automobile with a ladder in it looked like Hauptmann, isn't that right? A. He has a resemblance, yes.

Q. And you came before the Hunterdon County Grand Jury and you so testified? A. Yes.

Q. Isn't that so? A. Yes.

Q. And that is your testimony today? A. Yes.[25]

Fisher, realizing the impression the witness had made under the clever handling of the Attorney General, insinuated in his redirect examination that Lupica had had the same opportunity as Hochmuth to glance at the man; whereupon Wilentz, equal to the occasion, told Fisher they would argue that in the summation—as this was not the proper time.

The argument continued at length and the Court finally declared, "Now, now gentlemen, let us get down to business."

HANS KLOPPENBURG

Hans Kloppenburg, examined by Reilly, corroborated Hauptmann's testimony in regard to the "musical evenings." He recalled Fisch's farewell party at Hauptmann's home, on which occasion he saw him come into the house and converse with Hauptmann. Fisch had a package under his left arm, about five to six inches high, seven to eight inches wide, and perhaps fourteen inches long. He also saw them go into the kitchen, and when they came out, Fisch no longer had the package.

Under cross-examination, the Attorney General referred to the witness' previous examination by the Bronx District Attorney and

[25] The State had refused to accept Lupica as a witness because his credibility was open to attack on account of his having received money for newspaper articles on his identification of Hauptmann. The defense, in calling him as its witness, thought to embarrass the State. Lupica's testimony, however, was in the State's favor, for he placed outside of the Lindbergh estate, four hours before the crime, a "dark Dodge" in which there was a man and a section ladder.

the New York police and pointed out that upon being asked when he had seen Hauptmann in March and April, 1932, he had always replied that it was "too long ago" to remember.

Wilentz suddenly inquired, "Isn't that the reason Mr. Hauptmann picked out the first Saturday night to get the money from Condon so he would have you to establish the alibi?"

The witness appeared surprised, "That's a very funny question."

The Court sustained the defense objection.

On redirect examination, Reilly had the witness give his three reasons for remembering April 2nd, 1932: it was the regular musical evening, the first Saturday of the month; Mrs. Hauptmann wanted to play an April Fool joke on her husband; and she desired to visit her niece the following day. Wilentz in re-cross-examination again brought out that in previous examinations the witness had been unable to recall specific dates.

ANNA BONESTEEL

Mrs. Anna Bonesteel, owner of a restaurant in Yonkers, New York, near the Alpine Ferry wharf, was examined by Reilly. She identified a photograph of Violet Sharpe, who had come to her restaurant with another young girl two or three months prior to the Lindbergh kidnaping. On the night of the kidnaping, Violet Sharpe, with a gray blanket on her arm, came into the restaurant at about 7 P.M. and remained until 8:45. She was very nervous, said ". . . I am waiting for someone . . ." and looked outdoors continuously. The witness indicated to someone whom she did not identify, "Gee, she looks like a hen on a hot griddle, why don't she stop that?"

The Court sustained Wilentz' objection to her answer and revealed annoyance at her language.

Violet Sharpe left the restaurant to signal an automobile which stopped about two hundred feet away, the witness continued. She ran up, entered and was driven away.

As Wilentz started to cross-examine, the witness appeared angry and aggressive with no apparent reason. He got her to state definitely that she had not seen Violet Sharpe with a baby. She repeated previous testimony about how she had met Violet Sharpe, but admitted having known the young lady who had accompanied her very much better, although she could not recall her name. When Violet Sharpe visited her restaurant she did not know her name. Wilentz now asked if she had not known that Violet Sharpe had not left the Morrow home until 8 or 8:30 P.M. that evening. She replied that she had not known. If that were so, he asked, would she appreciate her error. She refused to admit that she could have been mistaken. Wilentz requested her to look at a photograph to see if it were one of that girl who was in her restaurant that night, or of the girl who had first accompanied Violet Sharpe. Both questions were answered in the negative. Then Wilentz informed the witness that he had shown her Violet Sharpe's last photograph.

The witness, surprised, declared, first positively, "That isn't Violet Sharpe," and then, correcting herself, "If it is, I can't—her face . . ."

Wilentz requested her to look at the photograph again.

She replied, after careful examination, "It does and it doesn't . . . Yes, it does." She was certain it was not the photograph of the lady who accompanied Violet Sharpe.

Wilentz pressed for a definite answer.

She now replied, "I think that is Violet Sharpe; I am sure that is Violet Sharpe."

JOSEPH DUTT

Joseph Dutt, examined by Reilly, corroborated Sommer's testimony about having reported to the Brooklyn police, on March 2nd, 1932, the incident of the night of March 1st. Under cross-examination the witness denied that he was Sommer's son, admitting Sommer was his father, "only by sort of adoption . . ."

CARL HERMAN JOERG

Carl Herman Joerg next corroborated the testimony of Sommer and Dutt under cross-examination, and stated that Sommer had not said anything to him about Violet Sharpe. On redirect examination the witness said Sommer had told him that he had seen a

woman on a trolley car with a baby which resembled the Lindbergh child.

PAUL VETTERLE

Paul Vetterle, a lifelong friend of Mrs. Hauptmann, with whom he had gone to school in Germany, was examined by Reilly. He remembered having seen her in 1924 and after that on November 26th, 1933. He seldom visited her. He arrived at the Hauptmann home at 3 or 3:30 P.M. and the defendant arrived about one hour later. At about 10 P.M. that night, he, Fisch and the other guests departed. During cross-examination, the witness maintained that his memory was correct as to previous testimony.

THOMAS H. SISK

Thomas H. Sisk was recalled for a continuation of his cross-examination and repeated parts of his previous testimony. A short redirect examination reviewed portions of it without adding any information.

CAPTAIN RUSSELL A. SNOOK

After recess, Captain Russell A. Snook, member of the New Jersey State Police, and supervisor of the State Bureau of Identification in charge of photographs and fingerprints in March, 1932, was examined by Reilly. He testified that Sergeant Frank A. Kelly who had taken or attempted to take fingerprints at the Lindbergh home, had nothing to do with their identifications. The witness had been informed that Dr. Hudson had come to New Jersey to demonstrate a newer and better process of fingerprinting.

Under cross-examination he indicated that many persons had handled the ladder, "to such an extent that the examination would hardly be considered of any value from an identification standpoint." On redirect examination he could not agree with Reilly that Dr. Hudson had developed five hundred fingerprints on the ladder. He emphatically denied that all but twenty or thirty of them had been identified. Fingerprints had been brought out by Dr. Hudson's

process and a few of them had been identified. By implication, those were of persons who had handled the ladder after the crime.

H. NORMAN SCHWARZKOPF

Colonel H. Norman Schwarzkopf was recalled for the defense and examined by Fisher. In a detailed examination, he corroborated previous testimony about the New Jersey police efforts to apprehend the kidnaper of Charles A. Lindbergh, Jr. The witness admitted having received a report on various aspects of the ladder, written on March 10th, 1932, from Squire Johnson, assistant director of construction, Division of Architecture and Construction. The Colonel agreed to produce the original report on the following day. He denied having stated in his Press releases that Violet Sharpe's suicide solved the crime.

On cross-examination the Attorney General stressed the fact that the New Jersey police had assiduously pursued all clues until Hauptmann's arrest. He sought to minimize criticisms directed against the New Jersey police by pointing out that the department had been surprisingly understaffed at the time of the kidnaping.

* * *

The day's session on February 5th opened with a lengthy discussion among counsel and Justice Trenchard about the defense request for records of the investigation of the crime. The State held the request vague and the reports so voluminous that the granting of it would be impossible. The Court, regarding the request as a motion, denied it.

PHILIP MOSES

Philip Moses, a taxi cab driver examined by Reilly, testified that on April 2nd, 1932, at about 8 P.M., he was near St. Raymond's Cemetery. Three men who had engaged his cab at another point near the cemetery got out and were joined by a fourth. The four men entered a gray automobile, and Moses gave it a starting push with his cab. Moses reported the incident to the New York police some time in October after Hauptmann's arrest.

Wilentz in his cross-examination ridiculed his conduct in Flemington while waiting to testify.[26] When Moses was questioned about St. Raymond's Cemetery, only confusion resulted.

MARIA MUELLER

Mrs. Maria Mueller, Mrs. Hauptmann's niece, was examined by Reilly, and remembered November 26th, 1933, when she visited the Hauptmann home in the afternoon and was alone with her aunt; later Hauptmann and Fisch entered. She placed their arrival at about 4 P.M. and her departure at some time between 9:30 and 10 P.M. During her stay there, Hauptmann did not leave the house until he took her home. She was also present the night of Fisch's farewell party.

Wilentz' detailed cross-examination pointed out the variations and inconsistencies in her present testimony as compared with that she gave the police after Hauptmann's arrest. These slight discrepancies she explained as due to faulty memory. She said she was now certain of her ground.

JOSEPH TARTELL

Joseph Tartell was called by the defense to dispute Cecile Barr's testimony. However, the prosecution objected to all of Pope's questions and was upheld by the Court, thus necessitating the withdrawal of the witness.

LOUISE WOLLENBERG

Mrs. Louise Wollenberg, in brief direct and cross-examinations, corroborated testimony of the party in Fisch's honor at the Hauptmann home and also testified she had met Hauptmann and Fisch together in a brokerage house.

[26] Moses' personality was such that he regarded himself as the defense's most important witness. Extremely exhibitionistic, he became the town jester when, shortly before the trial, he took up residence in Flemington. He played the clown to entertain tired reporters at the end of a day's session.

OTTO WOLLENBERG

Otto Wollenberg then corroborated the testimony of his wife, who just preceded him.

BERTHA HOFF

Mrs. Bertha Hoff, examined by Reilly, testified that in the summer of 1931 she was with her child on a farm owned by friends named Budreau, at Mountainville, twelve miles from Flemington. About Thanksgiving time in 1933, Mr. Budreau, accompanied by another man, visited her home at about 2 P.M.

Reilly exhibited a photograph to her and she identified it as the man who had accompanied Mr. Budreau to her home. She said that the man gave his name as Isidor Fisch. Reilly dramatically inquired if she were doubtful, but Mrs. Hoff decisively maintained her positiveness. Wilentz objected to defense counsel's request for the conversation she had had with Fisch. Reilly elicited from Mrs. Hoff that Fisch had bundles with him. As she began to elaborate, Wilentz objected, and Reilly addressed the Court, explaining that the defense wanted to prove that Fisch had attempted to dispose of his "bundles" on this occasion. Wilentz continued to object and Reilly replied:

> Now, if the Court please, we might just as well face the issue, after the Attorney General has summed up to the jury. During the day I am prepared to prove, if my witnesses come from New York, that the man who jumped over the cemetery wall was Isidor Fisch, that the money was handed to Isidor Fisch, that Isidor Fisch from that date on not only approached one, but many, persons in New York, trying to dispose of this money. I am going to trace every connection of Isidor Fisch with this money until he left on the steamer. I hope to be able to prove by witnesses when he arrived in Hamburg, his actions before the immigration authorities in Germany. I am going to trace everything I can to show that Isidor Fisch and not this defendant received the money from Dr. Condon, tried to dispose of it, tried to leave it not only with this woman but other people, finally left it with Hauptmann, and the development of the innocence of this defendant.

Wilentz replied:

I can find no fault, if your Honor please, with counsel's statement that he is going to try to do it, and I have no objection to his declaration here for the benefit of the jury either, because he is going to be called upon to prove his statements.

The question right now is—and I feel very confident for the State that there will be no such credible proof—with reference to whether or not a person whom she had never before in her life seen came to that house that day and whether or not she saw him with some bundles.

The Court sustained the objection and Reilly received permission to withdraw the witness.

JOHN E. SEYKORA

John E. Seykora, an agent for the Department of Justice, was examined at length by Reilly about his conversations with Condon in 1934. Following an involved series of questions dealing with the topography of St. Raymond's and Woodlawn Cemeteries, Reilly forced the witness to state that Condon had admitted in those conversations knowing and visiting both cemeteries frequently. Seykora firmly maintained that he had never heard that the doctor had been examined by alienists.

In his cross-examination Wilentz emphasized that since Condon had lived in the Bronx all his life it was only natural for him to be well acquainted with all its sections.

On redirect examination Seykora denied that his investigations had revealed information detrimental to Condon's character. Reilly asked, "Did anybody in official life in Washington from the President, not this present President, but the President then, stay your hands toward Dr. Condon?"

He responded, "Never in the slightest way that I know of, no, sir."

Wilentz' question on re-cross-examination, "Is it not a fact that Dr. Condon was known throughout the Bronx as a leader in Boy

Scout, Girl Scout, and other civic movements, and as a patriotic citizen?" brought forth emphatic agreement from the witness.

BENJAMIN HEIER

Benjamin Heier, a writer working as a cashier in a restaurant in New York City, was examined by Reilly. Prior to holding this position, he had worked at various others. After giving his age as twenty-four, he was asked whether he had been out with a young lady on April 2nd, 1932. Laughter greeted the query. The witness replied in the affirmative.

Reilly inquired, "How did you come to be a witness?"

Heier replied, "Why, I found something that led me to believe—"

Wilentz objected. The Court ruled the question in order but the answer unresponsive. Reilly withdrew Heier at this time with the reservation that he be called later.

VICTOR SCHUSSLER

Victor Schussler, who lived on the ground floor of the house in which Hauptmann resided, informed Reilly that he saw Fisch at the defendant's home three times and was present at Fisch's farewell party. Fisch left the Hauptmanns' at about 2 A.M. after the party. Schussler testified that after Hauptmann's arrest, his hammer, saw, square, an old chisel and a pair of pliers disappeared from his cellar.

Under cross-examination, Wilentz had him admit that the chisel in evidence was not his, and that he had never owned a plane. Schussler appeared uncomfortable and the Attorney General, after eliciting that he was suffering from a heart ailment, considerately discontinued his examination. After a brief redirect examination, Wilentz brought out that Schussler had wondered where Hauptmann got his money, because he was not working.

HILDA AND OTTO HEYNE

Mrs. Hilda Heyne, examined by Reilly, testified that she had known the Hauptmanns for three or four years and that she and her husband attended Fisch's farewell party. She arrived before him, but did not see him enter. Cross-examination was brief. Otto Heyne corroborated testimony just given by his wife. His cross-examination was very casual and of no importance.

BENJAMIN HEIER

Benjamin Heier was recalled and rapidly examined by Reilly. He related that on the evening of April 2nd, 1932, he took a young lady for a drive in the Bronx. Because of her subsequent marriage and death he did not wish to divulge her name, but agreed to inform the Attorney General about her if this were requested. After Heier and the young lady arrived at St. Raymond's Cemetery, they remained there for about two hours. Seated in the automobile, he observed a man jump to the sidewalk from the cemetery wall at about 9:30 P.M. The headlights of his automobile were on, so that the illumination permitted a good view of the man.

After Hauptmann's trial started, Heier saw a picture of Fisch in the newspapers and identified him as the man he saw jump over the cemetery wall.

A photograph of Fisch was exhibited to him and he now declared, "There is a strong resemblance." Heier stated that he had not known the defendant or members of defense counsel.

Wilentz, taking advantage of Heier's last response, sarcastically inquired, "Don't know anybody in this case, do you?"

Heier calmly replied, "Not before today."

Wilentz elicited that Heier had been manager of a cabaret. An ensuing series of searching questions provoked much resistance from Heier, who finally admitted having been convicted of a crime. Wilentz expressed surprise that he had not reported the incident in April, 1932; Heier could not adequately explain his silence

then. He firmly resisted all questions pertaining to the name and address of the lady who had accompanied him the night of April 2nd. The Court ruled that he was to answer and he reluctantly gave her name, but insisted he did not know her address. He had visited her home once or twice, had been out with her perhaps thirty times. Wilentz pointed out that he had previously said that he knew Miss Schwartz' address and he now refused to give it.

Heier calmly explained that he must have misunderstood the question and said "Yes" when he meant "I didn't know."

A little later Wilentz suddenly inquired, "Are you a professional witness?"

Heier decisively said, "No, sir."

The witness could not give specific data about St. Raymond's Cemetery. After the Court insisted on an answer which he had refused Wilentz, Heier said Miss Schwartz had worked at Bloomingdale's Department Store. At the close of his examination he said he had heard no one yell, "Hey, Doctor," at the cemetery; he did not know whether the man were tall or short; he saw only one man.

When Reilly got the witness to state on redirect examination that he had not come to Flemington to lie, the Court sustained Wilentz' objection.

Reilly now asked, "And the man that you saw jump over the wall resembles Fisch; is that correct?"

Wilentz objected, and there followed a brief discussion. Reilly held his question proper, but the Court ruled it objectionable, because it was leading and because the answer to it had already been given. Reilly graciously accepted the mild reprimand and told the Court he would try not to lead again, but that he had fallen into that very bad habit by listening to his distinguished friend, indicating Wilentz; he immediately added, however, that he also expected to take Wilentz' good habits home.

Reilly now tried to have a letter admitted in evidence which Heier had found a few days before his appearance in court. The letter, written by Miss Schwartz to Heier after April 2nd, recalled

the events of that evening. On re-cross-examination the witness stated that he did not have the envelope with him.

GEORGE STEINWEG

George Steinweg, a steamship agent examined by Reilly, testified that on August 18th, 1933, Fisch obtained tickets from him for himself and Henry Uhlig, to sail on December 6th, 1933, for Germany. Fisch paid $410 for the tickets and converted $650 into German marks.

Reilly prompted him to state that Fisch had very much more money in his wallet than the cost of the tickets; also that during one of his visits to the steamship office he had a very bad coughing spell.

Wilentz in cross-examination reviewed the direct testimony and then brought to the attention of the jury the known fact that Hauptmann gave Fisch $2,000 on November 14th, 1933, of which Steinweg had obviously not been aware.

SAM STREPPONE

Sam Streppone, radio repair man living in the Bronx, was examined by Reilly on February 6th. He identified a photograph of Fisch who, he testified, had visited his store on May 10th, 1933, to have his radio repaired. Streppone produced a record with the serial number of the radio and the time the set was received, and an entry that Fisch lived in a furnished room but refused to give his address. Fisch came again on May 14th, at which time he left a package there for six hours.

Streppone said the package was the size of a shoe box; he did not open it.

Wilentz objected and the Court ruled the answer stricken from the record. Reilly agreed, but Pope pompously jumped to his feet, asked them to wait, and stated, ". . . We don't consent to it being stricken out." Wilentz pointed out that Reilly had already consented and Pope, exasperated, said, "Oh, all right."

Streppone was now allowed to indicate with his hands that the package was about twelve inches long and five to six inches high.

Wilentz, in cross-examination, measuring each word slowly, inquired, "You were adjudged insane some years ago, were you not?"

Streppone answered, "In 1928, discharged with no psychosis." On redirect, Reilly had the witness testify that he had been at Central Islip [27] for a period of three months and had been discharged with no psychosis.

On re-cross-examination Wilentz brought out that Streppone had been admitted five times to institutions for mental disorders.

E. PAUL SJOSTROM

Lieutenant E. Paul Sjostrom, assistant supervisor, Bureau of Identification, New Jersey State Police, was examined at length by Fisher about the fingerprinting of the ladder, all of which had been discussed in detail by previous witnesses.

LOUIS KUBLER

Sergeant Louis Kubler, of the Bureau of Identification of the New Jersey State Police, was next examined by Fisher. He had not visited the Lindbergh home prior to March 10th, 1932, but was present on March 12th or 13th, 1932, when Dr. Hudson arrived. Dr. Hudson demonstrated a silver nitrate fingerprint process to Trooper Kelly and the witness. This demonstration was made on pieces of wood and on a part of the ladder, but revealed no readable fingerprints.

The witness followed Dr. Hudson's method "during the course of the next week." Fisher was surprised that he did not start to work immediately. He found about one hundred and twenty-five finger marks and perhaps thirty readable fingerprints. Fisher was again surprised to learn that the witness, although attached to the Identification Bureau, had never seen the original ransom notes. The silver nitrate process on paper and wood was further discussed, and the witness insisted that it was perfectly possible for a man to

[27] A New York State hospital for the mentally ill. It was definitely established that the witness had more than once been treated for a manic-depressive psychosis. Between attacks of this mental illness the person is absolutely normal. There were no apparent signs of mental abnormality while he was testifying.

handle wood for days without leaving fingerprints. Continued examination by Wilentz and Fisher evoked no new information.

FRANK A. KELLY

Frank A. Kelly, recalled for the defense, was examined by Fisher, who started to inquire about his activities the night of March 1st, 1932. Wilentz objected that Reilly had previously questioned him on that subject. The Court upheld Wilentz, and suggested that the witness had been "exhaustively" examined and that Fisher ought to ask some specific questions. Fisher intimated that it was very difficult to get to the precise point without reviewing preliminary matters.

Holding a photograph which Kelly had taken of the objects in the nursery, Fisher brought out that on the left-hand side of the window sill there was a little recess which on March 1st contained a beer stein. Kelly's photograph for some reason or other did not show it, although when he arrived on the scene, the stein had been in place. Kelly stated that there was a ransom note on the window sill. The night was cold and windy when he drove to the Lindberghs'. Fisher shrewdly emphasized that, in spite of the windy weather, the ransom note was on the window sill "unfastened in any manner, shape or form." [28] The witness differentiated in detail between finger marks and fingerprints.

On March 2nd, by the powder method, the witness went over the ladder twice, the second time at the order of Colonel Schwarzkopf whom he had informed that the first examination revealed no prints. He performed all of his work alone. Kelly reinforced previous testimony that after he had processed the ladder and before the silver nitrate demonstration, the ladder was handled by a number of people at a crime conference called by the Governor. Counsel and witness disagreed about photographing fingerprints. Fisher was very sarcastic, and Wilentz' objection was sustained by the Court.

[28] Fisher was evidently unaware that the police record of the interview between Condon and "John" at Woodlawn Cemetery had the notation that "John," in identifying himself, said that the note had been left in the crib. The introduction of this conversation at this point or at some other relevant time in the examination of other witnesses, would have given rise to a confusion from which the defense would have greatly benefited.

Although he did not elaborate at this time, Fisher inquired if Kelly remembered having conversed with Dr. Hudson about the presence of one nail hole in a rail of the ladder. Kelly decisively denied ever having had such a conversation. He admitted that although he searched the New Jersey fruit districts, he found no ladder similar in construction to the kidnap ladder. There was a prolonged and repetitive discussion, which became argumentative, as to the effectiveness of the silver nitrate process.

Wilentz, in cross-examination, used the courtroom window to demonstrate just how the recess in the window sill of the nursery would have looked with the beer stein in it, and effectively proved that someone coming in through that window would not have touched the beer stein.

To Wilentz' inquiry whether the kidnaper's fingerprints would have been found if he had worn gloves, the witness answered, "Absolutely not."

Fisher on redirect examination exhibited a newspaper photograph of the room which clearly showed the recess in the window sill, and asked questions about its exact location. An argument arose as to his legal right to use this newspaper photograph, and when the witness stated he could not tell whether he had taken it, the photograph was excluded. A photograph that he *had* taken was now discussed, and when he admitted that his photograph did not show that part of the room with the stein, Fisher elatedly discontinued his examination.

Wilentz, on re-cross-examination, indicated that the photograph of the room had been taken to show not only the window, but the suitcase under it and the place where the note was left.

Fisher on redirect, asked:

Was the picture taken, Trooper, with the idea of not showing this corner of the window? A. Oh, no.
Q. But it doesn't show it. A. No, sir.

Counsel finally agreed that as far as the photograph portrayed the room, it was correct.

OSCAR JOHN BRUCHMANN

Oscar John Bruchmann, a taxi driver living in New York City, said he had known Isidor Fisch, for whom he worked in 1930 when Fisch owned a pie-baking company. In May, 1933, while a taxi driver, he saw Fisch at Sixtieth Street and Broadway, New York City, and talked to him. Bruchmann said that Fisch "pulled a roll of bills out of his pocket and gave me a five-dollar bill." The Court sustained Wilentz' objection to the legality of the answer. Wilentz did not cross-examine.

GUSTAVE MILLER

Gustave Miller, a licensed plumber who had a shop in the Bronx about a block away from Hauptmann's home in 1933 and 1934, was examined by Reilly. In August, 1934, Mrs. Rauch, Hauptmann's landlady, called the witness to repair a leak in the clothes closet just off the kitchen in the Hauptmann apartment.

He inspected the attic with a candle. After his inspection, he left, returning later to repair the leak. Reilly was very specific in asking the witness if, when in the attic, he had noticed any missing boards. Miller insisted he had not; he was there about six or seven minutes. The witness now indicated that he had worked in that house on various occasions in 1931, and had found boards in the cellar. He was unable to describe the boards explicitly except that they were of ordinary rough wood.

Reilly was trying vaguely to get further testimony about the boards in the cellar, and had the witness say that he had not repaired the roof but had left some material for the owner to do so.

The witness, cross-examined by Wilentz, discussed in detail the clothes closet, the leak, and just what part of the closet was wet. The contents of the cellar were given again. The witness admitted having talked to agents of the Department of Justice, but denied having told detectives it would have been a good idea to search the drainpipe. Wilentz asked about the extent of his inspection of the attic and the closet.

The answers were slightly argumentative and evasive, and the Court at one time, somewhat exasperated, interrupted, "Oh, now,

here, Mr. Witness, you answer the Attorney General's question, you answer his question." Wilentz inquired what illumination he had needed for his inspection.

THERON J. MAIN

Theron J. Main, resident of Warsaw, New York, near Rochester, was examined by Reilly. On August 2nd, 1933, he was in New York City, where he delivered a truckload of goods. He went to a bank to cash a check, and saw a man whom he identified from a photograph now shown him as Fisch. That night, while in a restaurant about six blocks away from the bank, he saw the same man and they conversed. Later on, he observed this same man, Fisch, play an automatic slot-machine game. The man afterward gave the bartender a twenty-dollar bill which the witness described as a gold note.

After Main left the restaurant, Fisch followed, and again talked to him. Wilentz objected to Reilly's question about their conversation.

During the discussion among counsel and Court, Reilly finally stated: "Well, I want to get on the record that I bring him here for the purpose of showing, if it is permitted by the Court, that Isidor Fisch at that time and place wanted to exchange gold notes with him." The Court sustained Wilentz' objection.

Reilly finally got the witness to testify that Fisch showed him gold notes on the street. Main never saw Fisch after that event, but identified him from a picture he saw in a newspaper of January 8th, 1935. Reilly brought out that the witness was not being paid for his testimony. He tried to determine the size of Fisch's roll of bills. An objection by Wilentz was sustained.

Wilentz in his cross-examination had the witness describe a gold bill as yellow on one side and green on the other. He showed him a gold twenty-dollar bill and had him admit that it was very much like that. Specific questions were asked to have Main clearly describe the bill in Fisch's possession. Wilentz again had him repeat his description in order to clarify the color of the bill. Main always

said it was "goldish yellow" or "yellowish gold" on one side and green on the other.

Wilentz then suddenly hurled:

Q. Yes, sure. Haven't you read in every paper in this country that the gold bills didn't have any yellow backs or gold backs to them? A. I did not.

Q. Don't you know the only reference to gold is a little seal saying it was a gold certificate and it wasn't yellow or wasn't gold at all? A. I did not.

Q. But you are sure that you saw that yellowish gold on the back? A. Yes, it is all in it.

Wilentz showed photographs to the witness which he was unable to identify definitely. After queries about the name of the bank and what had taken place there, Wilentz once again had Main describe specifically the color of Fisch's twenty-dollar bill, which came into his possession later. Wilentz now exhibited one of the ransom gold certificates; Main declared that Fisch's bill was not like that.

Reilly on redirect examination further discussed the description of the gold bill in question and reinforced Main's presence in New York City on August 2nd, 1933.

On re-cross-examination Main admitted he had not known Fisch before coming to New York, and had never seen him since, although he remembered his face. Wilentz pointed out that he was unable to identify the picture shown him, but the Court agreed with Reilly that the pictures exhibited were not officially recorded as Fisch's.

At the close, Reilly politely said, "Thank you very much for coming down."

Wilentz, to reinforce the value of Main's testimony for the State, added, "You have the thanks of both sides." [29]

[29] The defense's strenuous attempts to indicate that Fisch's possession of large sums of money was possible if thought of as ransom money, collapsed when Main testified that the bills he saw Fisch with were goldbacks, thus proving that Fisch did not have ransom money in his possession.

GERTA HENCKLE

Mrs. Gerta Henckle was examined by Reilly. She met Hauptmann in July, 1932, at Hunters Island, and Mrs. Hauptmann in October, 1932. They exchanged visits, and she observed that Hauptmann always treated his wife kindly and affectionately. Reilly next inquired if it were true that Hauptmann had visited her home mornings on his way downtown, and she replied in the affirmative. She had gone to school with Fisch in Leipzig, and a day or two after his arrival in this country, he came to visit her.

Before Mrs. Henckle's marriage, her husband, Fisch, and Henry Uhlig all lived together. When Fisch sailed for Germany in December, 1933, she went to the boat with him. She did not know his relatives, as she had never visited him in Leipzig.

To Reilly's final question, "Was there anything at any time in Mr. Hauptmann's conduct toward you ungentlemanly or dishonorable?" she answered, "Certainly not."

Wilentz inquired immediately into Hauptmann's visits to her when her husband was present and when he was not. Enjoying her position in the courtroom, she chewed gum, smiled, and crossed her knees, keeping her suspended foot in constant motion. Affirmative responses were indicated by "Uh huh" and "You said it." Interrogating her about the coffee-drinking in her home, Wilentz sarcastically asked if she ran a coffee shop.

Mrs. Henckle, controlled, and cognizant of the importance of her testimony, replied, "No, but it might be a good business some day."

Wilentz retorted, ". . . You mean if you had a lot of customers like Hauptmann?"

In a carefree manner, she sharply answered, "Sure."

After questions concerning her meetings with the Hauptmanns and Fisch, Wilentz asked, "And while he was at your house he was introduced to Isidor Fisch, isn't that right?"

She replied, "Yes. Well, it was, at the first time they met, at my house, they were introduced."

Wilentz reinforced this point, practically repeating his question,

and she said: "Well, but Mr. Fisch told me he met him before, but it was the first time they met in my house. I didn't know that before."

Mrs. Henckle grew argumentative as Wilentz pointed out that she had told the police that Hauptmann first met Fisch in her home in July, 1932, and that she now said they had played a joke on her by pretending they had not met previously.

Hauptmann's visits to her and the relationship between the two families were discussed again. To prove their friendship, she said, Mrs. Hauptmann gave her a Christmas present. But she admitted she had not been invited to Fisch's farewell party.

On redirect examination, Mrs. Henckle said Fisch had borrowed money from her father and $4,000 from her mother-in-law. She maintained that when she had introduced Hauptmann to Fisch they already knew each other.

Wilentz in re-cross-examination brought before the jury a portrait of Fisch's meager existence in a small furnished room. He then attacked the two versions of the story of the meeting between Hauptmann and Fisch. Mrs. Henckle insisted that when questioned by the police she did not recall the joke. She vehemently denied that she had changed her story because of her friendship for Hauptmann or instructions from defense.

ERASTUS MEAD HUDSON

Dr. Erastus Mead Hudson, during lengthy direct, cross, redirect and re-cross-examinations, revealed that, unofficially, he became interested in the ladder fingerprints about a week after the crime. He had always been interested in fingerprinting, and thought chemical methods better than physical ones. The New Jersey State Police allowed him to demonstrate his method. When he arrived at the Lindbergh estate, the ladder had already been handled by many investigators, and when in the course of his tests, numerous smudges and fingerprints appeared, they were thought to be those of the police.

The substance of Dr. Hudson's direct examination revolved around his criticism of the New Jersey authorities' fingerprinting method. Dr. Hudson had not been taken into their confidence. The most striking evidence he gave concerned his statement that the upright of the ladder, which the State contended came from the defendant's attic and which now had four nail holes in it, had only one nail hole in it when he saw it.

Wilentz, on cross-examination, reviewed most of the direct testimony in regard to the nail holes and effectively proved that the witness' notes made at the time, did not contain that observation. Dr. Hudson insisted that somewhere he had a memorandum to that effect.

WILLIAM WHITHEAD

William Whithead, examined by Fisher, revealed that he had known Millard Whited all his life and frequently discussed his reputation. Asked about Whited's reputation in his community in regard to truth and veracity, Wilentz interrupted and inquired if the witness knew the meaning of "veracity." Before Whithead could answer, Fisher reframed his question omitting the word.

As soon as Whithead decisively replied, "No good," Wilentz cross-examined and forced the admission that Whited had never been in jail, but that Whithead had.

GEORGE E. J. LENZ

George E. J. Lenz, a Hopewell resident, who had known Millard Whited for about twenty years and had testified in the Bronx proceedings against Hauptmann, when asked, "What is the reputation of Millard Whited as to telling the truth?" retorted, "Not good."

In cross-examination Wilentz mentioned the hostility which had arisen between the witness and Whited when Lenz had sold Whited some lumber for which he declined to pay because he thought it stolen.

Fisher then had the witness emphatically deny that the lumber had been stolen, and brought out that it had not as yet been paid for.

WILLIAM DIEHL

William Diehl, who had known Millard Whited for many years, testified as to his reputation for truthfulness, " 'Tain't any good."

Wilentz' cross-examination elicited that in the Bronx proceedings against Hauptmann he had not been allowed to testify, because he had sworn then that he never discussed a man's reputation for honesty and veracity. Wilentz then showed Diehl a sheet of paper and asked if it bore his signature. He identified it, but when requested to read the document, stated he was unable to read. He did not know he had signed it, but admitted it contained something about Whited.

After Wilentz reinforced the discrepancy between Diehl's Bronx testimony and his present statements, Fisher in redirect examination had him explain his ignorance of the meaning of "veracity," and stressed his understanding of "truthfulness." Because of Wilentz' objection, which was sustained by the Court, and the witness' failure to understand "veracity," Fisher discontinued his questioning.

AUGUSTA HILE

Mrs. Augusta Hile, Mrs. Henckle's mother-in-law, testified that she had known Isidor Fisch very well. Fisch borrowed $4,350 from her and never returned any of it; she saw him last on December 2nd, 1933. Part of the money had been invested in a pie-baking company and the rest in the fur business.

KARL HENCKLE

Karl Henckle, husband of Gerta Henckle, knew Fisch in 1926 and met Hauptmann in 1932 at Hunters Island. He did not object to Hauptmann's morning visits to his wife. Despite his reply that he had never entertained the slightest thought of anything irregular

or improper between Hauptmann and his wife, the State objected to both the question and answer, and was sustained by the Court. Henckle saw Fisch for the last time about fourteen days before he sailed for Germany.

On cross-examination Henckle testified that Fisch was introduced to Hauptmann in his home in July, 1932. Due to State objections, he could not say, although he implied, that his wife had corrected the date for him.

HENRY UHLIG

Henry Uhlig, Fisch's best friend, questioned by Reilly, told of his friendship with Fisch and related his various business transactions. His association being proved of such a nature as to allow recognition of his friend's penmanship, Uhlig was unable to identify Fisch's handwriting when defense counsel showed him the ransom notes. Wilentz merely made one inquiry, which allowed Uhlig to say that Fisch was an American citizen.

WALTER MANLEY

Walter Manley, a Danish resident of the Bronx engaged in the paint business, appeared very nervous, sat on the edge of his seat. Reilly, before his examination, requested that the witness make himself comfortable.

On two occasions he had worked in Fredericksen's bakery and had known Mr. Fredericksen for eight or nine years. On March 1st, 1932, at about a quarter after seven, he purchased some bread and pastry, and Mrs. Hauptmann served him. In front of the bakery, he saw Hauptmann seated at a table. Two months ago when they were working together, Manley told a man named Grant about the incident. Grant communicated with Reilly, and thus the witness was subpoenaed. He came from a sick bed to testify.

Wilentz cross-examined, and Manley testified that he was working on a Government Relief project. He had known Mrs. Hauptmann before 1932, but had never known Hauptmann until the night of March 1st. The witness admitted his ability to read. He

saw Mr. and Mrs. Hauptmann's pictures in the newspapers some time after September, 1934. He had not informed either the police or Mr. Fawcett of the incident. He had been in the restaurant, on March 1st, perhaps five minutes. Because of Manley's illness, he was excused.

STANLEY SEAL

Stanley Seal, a Flemington resident engaged as a patternmaker for twelve years, was examined by Pope. His youthfulness and seriousness, coupled with a convincing manner, gave a favorable impression. He demonstrated that although there may be two nicks in a plane blade, the corresponding marks on the wood will vary according to the angle at which the plane is held when used. Equidistant marks on the wood would not necessarily mean that the nicks on the plane blade were similarly equidistant. Using Hauptmann's plane he conclusively proved that by holding it at different angles he could produce variations in the marks on the wood. Seal's contention under cross-examination remained unshaken.

HUGH ORR

Hugh Orr, sixty years of age, a graduate of the Massachusetts Institute of Technology, was questioned by Pope. He had examined the photographs of the plane markings in evidence.

Pope inquired, "Are the so-called plane-bit markings, showing upon those photographs, solid bodies?" There was an affirmative reply.

Wilentz attempted to object, and Pope asked whether he wanted to cross-examine.

Wilentz, somewhat startled, inquired, "On what?"

Pope replied, "On his qualifications."

Without clarifying the issue, Wilentz cross-examined, asked numerous questions under severely trying conditions owing to the witness' serious deafness. The answers were somewhat irrelevant.

Most of Wilentz' questions concerned wood, and Pope interrupted to indicate that Orr was not called to testify about wood.

Wilentz then retorted, "He is called to testify on the subject of physics and purely of physics and that is all."

Pope then asked Orr some questions about physics and the measurement of solid bodies. Confusion arose as to the purpose of this testimony. Finally Pope tried to clarify the issue by explaining he was called to show "the possibility of identifying markings on wood without the measurements of the three dimensions. That's all. That's purely a question of physics."

Wilentz continued and the subject became more and more obscured. Counsel and the Court could not hear Orr and he could not hear them.

After a long discussion in which Pope tried to convey that he alone understood the point, he said:

> This man is not called for the purpose of identifying markings on different kinds of wood at all. He is a physicist called solely for the purpose of discussing and telling this jury whether it is possible to identify with any degree of accuracy markings that are made by a plane bit or anything else that creates a solid body without the measurements of the three dimensions. Now that is purely a case of physics and it isn't anything else. And that is the only thing he is called for.

The confusion continued and Pope asked:

> Q. You have examined the so-called plane bit markings, have you not? A. I have.
>
> Q. Are they or are they not solid bodies? A. They are solid bodies, the markings themselves as they exist on the wood, being parts of the wood itself, are solid bodies, as is the wood.
>
> Q. Now, referring to the photographs, do the photographs of the plane bit markings show any third dimension of the—show any third dimensions of the planed surface by actual measurements? A. Characterizing?
>
> Q. Characterizing, I mean. A. Yes.
>
> Q. Characterizing dimensions in all portions of them? A. No, they can't be identified otherwise.

Despite Wilentz' efforts, the impression remained that no one in the courtroom knew what was taking place except the witness.

CHARLES J. DE BISSCHOP

Charles J. De Bisschop, general contractor, boat builder, house wrecker, lumber cutter and grain matcher, was examined by Pope at length in order to qualify him as a wood expert. The witness, exhibiting two pieces of wood and giving their history, proved that they had originally come from different trees. Demonstrating to the jury, he insisted that the grains of both pieces matched despite their separate origins. Pope indulged at length in a learned discourse on lumber and the growth of trees. Asked to compare the ladder rail which the State contended had come from Hauptmann's attic, with the piece of lumber conceded to have come from the attic, De Bisschop insisted that those two pieces had never been one.

Continued lengthy cross and re-cross-examinations did not essentially change his conclusion; however, the State successfully implied that his approach was not as scientific as Arthur Koehler's.

WILLIAM BREVOORT BOLMER

William Brevoort Bolmer, a Princeton graduate, and operator of a gasoline station on the corner of the road from Hopewell to New Brunswick where it crosses the road from Somerville to Princeton, was examined by Pope. In the latter part of February, 1932, some people drove up to his service station in a dark green Ford coupe; he remembered them because during the month, they had visited his place three or four times. He especially recalled the automobile's being at his service station at 1:15 A.M. on March 1st, 1932, because a "poor-looking ladder" was attached outside. Pointing to the kidnap ladder in the courtroom, he maintained it was the one he saw that night.

The men purchased gasoline, and there was sufficient illumination to permit him to see clearly the automobile and ladder, which, for some inexplicable reason, he touched three times. He could identify the man and woman in the automobile.

At this point Pope asked Hauptmann to rise and the witness was asked, "Is that the man?"

Bolmer decisively replied, "Positively not."

After a lengthy legal battle about Pope's question and Bolmer's ability to describe the man, the Court permitted the description: "He was about five feet ten or eleven, which is my height. I looked level into his eyes. His face was thin, it was longer in proportion to its width than many faces that I have ever seen, not any but many. And I would say he weighed 132 to 140 pounds, 130 to 140 pounds."

Later Bolmer elaborated that his hair was dark, his face smooth, without mustache or beard.

He had seen pictures of this man, and when Pope tried to get him to tell him when and where, again there was a long argument, and Pope, the clarifier, said: "I am going to produce another picture, not the same ones that he saw. He may have seen them in the newspaper and, if he did, why, the newspapers have probably been thrown down in the cellar and burned up and destroyed by this time. However, I won't press it."

Shown a photograph, apparently of Fisch, Bolmer denied he was the man.

Pope inquired about the woman, ". . . Would you or would you not be able to recognize a picture of that lady if you saw it?"

He answered, "No, I could only say it was similar."

Wilentz then asked if Bolmer had ever reported these incidents to the New Jersey authorities. When he received a negative reply, Pope asked Bolmer's reason. Wilentz objected but Justice Trenchard disagreed with him. Bolmer paid little attention to Wilentz' continued objections and argued with him about his right to answer. The Court instructed Bolmer on procedure.

Then the witness stated: "The picture of the ladder that I saw was extended. I saw the ladder nested. I did not think the ladder in the picture would nest. For that reason I didn't think it was the same ladder and I didn't want to make a fool of myself by talking about something I didn't know about."

Examined by Wilentz about his reasons for not having originally thought the ladder he saw was the kidnap ladder, pictures of which he saw in the newspapers, Bolmer was very hostile. At one time he told Wilentz: "You can't tangle me up."

Argument arose between the two, and Pope informed the Court that the prosecutor was scolding his witness.

Cautioned by the Court to remain quiet during objections, Bolmer, not completely satisfied, inquired, "May I ask—tell you something, sir?"

The Court emphatically stated, "No, not unless counsel see fit to have you do so."

Wilentz forced him to admit he had not seen a Dodge with a ladder in it, only a Ford with a ladder tied on the outside.

EWALD MIELKE

Ewald Mielke, proprietor of a millworking plant at Lindenhurst, Long Island, final witness for the defense, was examined by Pope. He testified he was a carpenter and millwright by trade, with eighteen years' experience. He had handled millions of feet of North Carolina pine and had extensive knowledge of matching grains of wood. Mielke declared that it was rather usual for a nick to develop on the blade of a plane.

When he was asked if he could say whether the kidnap-ladder rail and the floor board of Hauptmann's attic had been one piece, an argument arose in regard to Mielke's qualifications. Examined in detail by Wilentz, the witness admitted that his experience was more practical than scientific.

Pope, taking the witness, tried to get information about the identification of wood. Then, immediately after Mielke stated he had briefly examined the ladder rail and the wood from Hauptmann's attic, Pope asked: "Well, was your examination of the grain in the board and the ladder rail sufficient to enable you to form an opinion as to whether there was or was not a matching of the grain in this board and the ladder rail?"

Wilentz objected that the witness was not qualified to render an opinion. Pope disagreed, but the Court excluded the question.

There were a number of questions about the Southern pine belt, but Pope could not get his questions over because of Wilentz' objections. Finally Pope had Mielke look at the piece of wood from Hauptmann's attic, and he stated that that piece of lumber had come from the upper part of the tree and not from the lowest.

Referring to the arrangement of knots, he indicated that if this particular piece of lumber had come from the lowest part of the tree the knots would have been closer together. Comparing the ladder rail with the board from Hauptmann's attic, he indicated that there was more life in the board than in the ladder rail. Likewise, the shadings in the rings in the two pieces of lumber were different; on one piece of wood there was an indication of an injury to the tree known as a sap streak. Pope requested him to explain whether the difference in the size of the spacing of the knots in the ladder rail and in the floor board indicated anything.

Mielke stated: "A young tree has more branches, and as the tree increases in size and gains a better footing, the lower part of the tree prunes itself by rot, the branches drop off, the others remain alive, and the extra strength through the roots sends up faster growth." The witness declared that the ladder rail and floor board had never been part of the same piece of lumber.

Pope inquired:

I ask you from your practical experience as a carpenter, a millwright, and one who has handled millions of feet of southern pine lumber, if, by looking at these two boards which I have shown you, the State's Exhibit, one known as the attic floor board and the other the ladder rail, bearing in mind the fact that the one board shows more life than the other board, that the one board shows larger knots and more of them in the same relative space, and that the one board shows a different color in grain than the other board, I now ask you if, as a practical mill man and from your years of experience, you are able to tell this jury whether the two boards were ever one and the same board. Now just please answer yes or no. A. No.

All attorneys were on their feet, surprised at the answer: the whole situation appeared ridiculous, everyone realizing that Mielke had answered a semi-hypothetical question in such a way as to break down the defense.

A subsequent discussion of plane marks on wood was not clarified.

After further discussion of wood, Wilentz in re-cross-examination asked:

"And the extent of your entire investigation of these exhibits, S-226 and the ladder was for five minutes yesterday afternoon?"

Mielke agreed.

After recess Reilly declared, "The defense rests." [30]

The State's Rebuttal

JOSEPH J. FARBER

Joseph J. Farber, the first witness in the State's rebuttal testimony, a surprise witness, was examined by Wilentz. Farber was engaged in the insurance brokerage business. In 1932 he lived in the Bronx. Without any preliminaries, Wilentz rapidly asked a number of questions which elicited that on the night of April 2nd, 1932, at 10 P.M., he was in a delicatessen store at 1350 Sixth Avenue, Manhattan. He had had an automobile accident that evening on Sixth Avenue between Fifty-fourth and Fifty-fifth Streets in Manhattan, with an automobile operated by Benjamin Heier. Farber said that the distance from the locality of the accident to St. Raymond's Cemetery was eight and a half miles.

[30] With the announcement, "The defense rests," a definite reaction was felt in the observers: a distinct feeling that the case of the defense was incomplete, that it lacked finality. Those who had been excitedly expectant that actual kidnapers were to be named were keenly disappointed. Other beliefs that were not borne out were that the credibility of the State's witnesses would be seriously attacked by defense witnesses, or that a more than subtle implication of guilty knowledge on the part of some of the State's witnesses would be presented to the jury. Instead, Wilentz in his cross-examination had accused certain important witnesses of bootlegging, of perjury, or owning a brothel; one he charged with a conviction for carnal abuse; another he attacked as a professional witness: enough, certainly, to permit the jury to question the value of these persons' testimony.

Summing up the case for the defense, one found that it relied entirely upon: (1) the credibility of Hauptmann's story; and (2) the incredibility of the testimony of State's witnesses who identified Hauptmann as the man they had seen near the Lindbergh home and the man who had possessed the ransom money, and the testimony of Dr. Condon who definitely asserted that "John" was Hauptmann.

In so far as expert testimony was concerned, both sides were equally positive in their assertions as to whether Hauptmann had written the ransom notes. On this point the State had a greater number of witnesses than the defense, and there were definite indications, elicited in the examination by attorneys, that the handwriting witnesses for the State were better qualified than those for the defense.

Reilly, in his brief cross-examination, did not attempt to challenge his testimony, but weakly attacked Farber's credibility. Wilentz then had Farber assert that he never had been convicted of a crime.

ARTHUR LARSEN

Arthur Larsen, house painter, mentioned by the defense witness, Carlstrom, said that he slept in Dunellen with Carlstrom on the night of March 1st, 1932; Carlstrom was at home all evening. Larsen had worked at this home for two weeks, and during that time neither he nor Carlstrom had left Dunellen any week-day or night; on week-ends the witness had left to go to his family.

Reilly sought, by questioning Larsen's memory, to create doubt about his testimony.

OSCAR HILBERT CHRISTENSON

Oscar Hilbert Christenson, owner of the house in Dunellen, and employer of Carlstrom and Larsen, produced a record of the cost of the house with entries of their salaries and the dates of their employment. Reilly objected when he referred to his record book, but it was allowed by the Court. Defense counsel objected to much of this testimony but was overruled. The witness had paid Carlstrom for working on March 1st, 1932, as caretaker and furnace tender, and he therefore must have been in Dunellen.

GEORGE G. WILTON

George G. Wilton, a photographer for the New Jersey State Police, identified a number of photographs among which was one of the ladder rail, taken March 8th, 1932, showing four nail holes. Reilly attempted to prove that the ladder was somewhat different than when originally photographed. He was surprised that such an important piece of evidence had not been witnessed to prove authenticity.

FRED H. SCHULTZ

Fred H. Schultz was withdrawn by Wilentz when he testified he had not taken the photograph shown him and did not know who had.

HAROLD S. BETTS

Harold S. Betts, employed by the United States Forest Service for the past thirty years, testified that the kidnap ladder was submitted for his inspection on May 23rd, 1932. He filed a report on June 1st, 1932, noting four nail holes in it at that time.

Under cross-examination, Betts said he had been given permission by the Secretary of Agriculture to testify. Further questions by Reilly did not concern the witness.

ALFRED BUDREAU

Alfred Budreau, examined by Peacock, lived in Mountainville, New Jersey, in October, 1933, and knew Mrs. Hoff. He denied that he ever came to Mrs. Hoff's home with a man named Isidor Fisch, although she had previously so testified. Budreau maintained he had never known Fisch.

Reilly on cross-examination inquired:

Q. You are subject to epilepsy,[31] aren't you? A. Who?
Q. You. A. No, sir.
Q. Didn't you have an epileptic— A. No, sir.
Q. Do you know what I am going to ask you? A. I do.
Q. Now I will frame the question: Didn't you have an epileptic fit in this courtroom yesterday? A. I did not.

[31] The day before this witness testified, Mr. Reilly sat alongside of me in the courtroom. His attitude, associated with some anxiety, indicated to me that he thought he was not well. It happened that Budreau fainted, and was removed by guards. Reilly anxiously asked me what had happened to the man, I, aware of his anxiety about his own health, decided not to say that Budreau had had a heart attack, and said epileptic fit. I chose that diagnosis because I felt certain that Mr. Reilly could in no way connect it with himself. Mr. Reilly, therefore, in attacking the credibility of the witness, now made use of my expedient explanation.

On redirect examination Budreau said he had fainted because of the heat in the courtroom the previous afternoon. He insisted that he had never had a fit. On re-cross-examination he persistently denied Mrs. Hoff's testimony concerning him.

JOSEPH O. LEVENSON

Joseph O. Levenson, real estate operator, was at the home of Mr. and Mrs. Jung on March 1st, 1932, between approximately 7:30 P.M. and midnight. Isidor Fisch arrived there a few minutes after he did, and left a few minutes before him. The witness had been invited to the house by Jung to transact business with Jung and Fisch.

Reilly objected: ". . . We haven't produced any Mr. Jung in here at all, nor has anybody said that Isidor Fisch was in Hopewell March 1st, so far as I know, in this case."

Peacock responded, "They may not have said it, but there were a lot of insinuations—"

He was interrupted by Reilly, who excitedly replied, "Oh, no!" Peacock finished "—through the trial as to where he was, and we are going to prove where he was."

Reilly was overruled by the Court.

Levenson made out some notes in Fisch's presence at Jung's home on the night of March 1st, 1932, which were now offered for identification.

Reilly's memory-testing method was again employed in cross-examination, and he insinuated lightly that Levenson was not telling the truth. Levenson described Fisch's appearance, and said he had not signed any papers that night. The witness had not discussed the incident and could not say how the police learned of it. Reilly seemed to doubt Levenson's insistence on his not having talked of the incident.

Peacock then had the witness say he had never been convicted of a crime.

ERNA JUNG

Mrs. Erna Jung, who had known Fisch, testified that on the night of March 1st, 1932, there had been some business transaction

at her home. Promissory notes were drawn, and she was to have received money. Levenson, Albert Boehn, Mr. Lutz, Fisch and her husband were present. Fisch was in her home that evening from approximately seven-thirty until twelve o'clock. She was of the opinion that Fisch had been at her home some time before in January.

Reilly, indulging in routine questions, suddenly had the witness say that her home was about one hundred and ten blocks from the Forty-second Street Ferry. She was positive of Fisch's presence in her home; he had come in place of Mr. Schloesser who was ill. Mrs. Jung had known of Fisch's illness.

Reilly then inquired if Fisch "didn't come there to tell you that, because he had a couple of hours to cover, so as to remember the early part of the evening of March 1st?"

Wilentz stated, "I thought Mr. Reilly didn't make any such contention a while ago."

Reilly satisfied Wilentz by explaining that he was only testing the lady's recollection. She became a witness when she saw Fisch's picture in the newspaper, but admitted that she did nothing when she first saw the photographs.

HENRY JUNG

Henry Jung, husband of the previous witness, confirmed her testimony and added that as a result of some business transaction with Mr. Schloesser and Mr. Boehn, he had expected to receive some money on the night of March 1st, 1932. He received instead six or more promissory notes.

Reilly followed with a lengthy discussion of the business transactions between the witness and Mr. Schloesser. Reilly indicated that he would like the promissory notes in evidence, not realizing that previously he had refused Wilentz' request for their admission. Wilentz then produced some of the notes, which Jung identified, again closing with the assertion by the witness that he had never been convicted of a crime.

HANNAH FISCH

George Madison Priest was now sworn in as an interpreter for Miss Hannah Fisch, Fisch's sister. Wilentz suggested that he sit some distance from Miss Fisch, so that her answers could be heard as well as his. The Attorney General's suggestion was wise, because some of the jurors understood German, and those who could not, would at least be able to observe her facial expressions.

Her brother came to Germany at the end of 1933 and lived with her.

The interpreter did not repeat the answers as she gave them, and conversed more than was necessary. Wilentz called his attention to this.

Miss Fisch said that her brother arrived with a handbag and a satchel which she helped unpack, and she enumerated his belongings. On March 27th, 1934, he was taken to the hospital where, after two days, he died. She finally asserted that her brother had fifteen hundred marks in traveling checks, and five hundred dollars in American currency. She denied that he possessed anything else of value.

On cross-examination Miss Fisch informed Reilly that she could not speak English well, and he tried to ask a question in poorly worded German. In an unclarified discussion he sought to determine the efforts made by her family to secure counsel to recover Fisch's estate.

Reilly inquired: "Before your brother went to the hospital do you recall him handing you a package of papers and having you tear them up and throw them in the fire while you stood or sat alongside of him?"

Because of the interpreter's ignorance of legal procedure, he was neither putting the questions nor giving the replies exactly as they were phrased. In attempting to edit statements from both witness and counsel, he increased the confusion. Miss Fisch replied that there had been two slips of paper which were burned and she added, "I know what they were." The last phrase was not given by the interpreter and Wilentz, understanding German, objected

to his omission. Reilly sarcastically commented on the Attorney General's scholarship.

Wilentz on redirect examination, inquired, ". . . What were the two papers that you caused to be burned?" Despite Reilly's objection, the answer was that they were notations of the total of one thousand dollars which Fisch had sent home over a period of five or six years. She had sent her brother money in 1932, but was not allowed to tell the sum. She had not found in his belongings any record of bank deposits in Hamburg.

Reilly on re-cross-examination got her to admit that there were safe deposit boxes in Germany, by which he attempted indirectly to imply that Fisch could have used a safe-deposit vault to hide money. Reilly continued discussing the two papers she had burned for her brother. He was not interested in their contents, but very anxious to record the size of the sheets. When he elicited that Fisch had carried these papers in his wallet, the witness was excused.

JOHN F. O'RYAN

Major-General John F. O'Ryan, Police Commissioner of the City of New York at the time of Hauptmann's arrest, told of his conversation with Hauptmann on the day following the arrest.

Wilentz inquired, "It was testified here in this court by this defendant that before certain monies were found in his garage that he told you where those monies were, is that correct?"

O'Ryan replied, "No, that is not correct." He declared that the money had been found before Hauptmann had told him of it.

Reilly, on cross-examination, in a commanding tone inquired, "Do you know, General, that you were brought down here just for your appearance before the jury?"

The Court allowed Wilentz' objection. Reilly then sought to get General O'Ryan to declare that, as a lawyer, he did not believe his testimony relevant. Wilentz' objection was sustained by the Court.

SELMA KOHL

Mrs. Selma Kohl, landlady of the house in which Fisch lived from April, 1932, until his departure for Germany, testified that he had occuupied the smallest and cheapest room for which he paid $3.50 weekly. Reilly's cross-examination only served to reaffirm Fisch's extreme poverty.

WILLIAM KONIETZKO

Policeman William Konietzko of Princeton testified that he, accompanied by Patrolman Murray, escorted Lou Harding to the Lindbergh home on March 2nd, 1932, and at no time did Harding mention a woman's presence in the automobile which he described. Reilly, on cross-examination, decried the absence of official reports to corroborate the witness' testimony.

LEWIS J. BORNMANN

Lewis J. Bornmann was recalled, and corroborated his own and other previous testimony. On cross-examination Fisher brought out that Bornmann held the lease on Hauptmann's apartment, but was unable to stress defense difficulties in securing admission to it, because of objections from Wilentz, all of which were sustained.

ARTHUR KOEHLER

Arthur Koehler was recalled to contradict evidence given by the defense wood experts. His most important declaration at this time was that in March, 1933, on his first inspection of the kidnap ladder, he had recorded the presence of the four nail holes in the ladder rail.

Pope, attempting to be technical in his attack on Koehler, could not shake his previous contentions. To reinforce Koehler's statements, Wilentz had him say that, despite Pope's arguments to the contrary, he still maintained the relationship between the floor board and the ladder rail.

LEO SINGER

Leo Singer now maintained defense witness Kiss was not in his home on March 1st, 1932. Having heard Kiss' statement to the contrary over the radio, he had volunteered his information. Reilly seemed more interested in the future career of Singer's daughter than in the witness, and did not directly attempt to discredit him.

OTTILIA HOERBER

Mrs. Ottilia Hoerber had given Fisch a promissory note on the evening of April 2nd, 1932, which she now identified as bearing her signature. Fisch arrived after supper and left probably between nine and nine-thirty. Reilly again sought refuge in an attack on the witness' memory.

ERNEST MILLER, CATHERINE MINNERS AND ELMER JOHNSON

Ernest Miller, Catherine Minners, and Elmer Johnson testified that Violet Sharpe was with them from eight until eleven o'clock on the evening of March 1st, 1932.

Reilly merely sought to question these witnesses' memory, and tried to imply that Elmer Johnson, who admitted his Swedish birth, had been substituted for "Red" Johnson.

GEORGE MARSHALL

George Marshall, night watchman at the Morrow Englewood estate, corroborated the hours of Violet Sharpe's departure and return on the evening of March 1st, 1932.

ELIZABETH MORROW

Mrs. Elizabeth Morrow, mother of Mrs. Lindbergh, and final rebuttal witness, testified that Violet Sharpe had served her dinner on March 1st, 1932, at about seven o'clock. Mrs. Morrow saw her before eight o'clock, and then after eleven o'clock that evening. Reilly's further questions did not alter her testimony.

* * *

The Attorney General, after checking up on the exhibits, announced: "The State rests." There being no sur-rebuttal, Reilly stated: "We rest." Rosecrans renewed his motion for the direction of a verdict of acquittal on the same grounds as stated at the end of the State's case, which was denied. Court was then adjourned until Monday morning, February 11th, and it was agreed among counsel that the State first make its opening address to the jury, to be followed by the defense. Wilentz was to conclude the State's summation.

Summations

Hauck [32] opened the State's summation. He presented the facts of the case objectively, with no attempt to sway the feelings of his listeners. His approach was cold and matter-of-fact, serving as a foil for the more effusive Attorney General.

At Hauck's conclusion, Reilly delivered a lengthy summation, highly charged with emotion, which vehemently sought to ridicule the strength of the State's case and to create doubt in the minds of the jurors in regard to the evidence. He also stressed what he thought was a too-perfect case on the State's part, indicating that the testimony had been tampered with, although no one was directly so charged. With oratorical flourish, he maintained the impossibility of his client's guilt of the crime, and expressed doubt that it could have been committed by him.

Wilentz in his lengthy delivery of the State's case ran the gamut of emotion, but allowed his appeal in no way to cloud his factual presentation of the points in evidence. He accused Reilly of trying the case in such a manner as to "assassinate the character and reputation of everybody that dare to come here."

* * *

At the completion of his summation, the courtroom was startled by a voice.[33] The first few words were barely uttered when a con-

[32] This arrangement allowed him to participate and share honors with the Attorney General in summing up the State's case.

[33] It was the voice of the Reverend Vincent G. Burns, pastor of an interdenominational church in Palisades, New Jersey. His statement was based on an alleged confession made by a man to him in his church.

stable rushed to the individual and put his hand across his mouth.

The voice had started to say, "If your Honor please," and finished, "I have a confession that was made to me by the man that committed this crime."

The Court held a conference, and Wilentz, for the purpose of record, stated, "If your Honor please, counsel have agreed that while we don't know what the intruder did say or didn't say, that if the jury heard it, whatever it was, of course, they will disregard it."

Reilly had previously said: "I think he ought to be committed to an insane asylum. . . . He came to see me once and I threw him out. He was here the very first day dressed that way [34] and I had the troopers throw him out. . . ."

The Court then addressed the jurors, asking them to "forget the scene" and disregard anything they had heard. Court was immediately adjourned, and on the following day Justice Trenchard charged the jury:

The Court's Charge

"Ladies and Gentlemen of the jury:

"The prisoner at the bar, Bruno Richard Hauptmann, stands charged in this indictment with the murder of Charles A. Lindbergh, Jr., at the Township of East Amwell in this County on the first day of March, 1932.

"It now becomes your duty to render a verdict upon the question of his guilt or his innocence and upon the degree of his guilt, if guilty. In doing this you must be guided by the principles of law bearing upon the case that I will now proceed to lay before you.

"In the determination of all questions of fact, the sole responsibility is with the jury. You are the sole judges of the evidence, of the weight of the evidence, and of the credibility of the witnesses. Any comments that I may make upon the evidence will be made, not for the purpose of controlling you in your view of the facts,

[34] In clerical garb.

but only to aid you in applying the principles of law to the facts as you may find them. You must not consider what I shall say concerning the evidence as being accurate, but you must depend upon your own recollection. You must not only consider the evidence to which I shall refer, but you must consider all of the evidence in the case.

"In this, as in every criminal case, the defendant is presumed to be innocent, which presumption continues until he is proved to be guilty.

"To support the indictment and to justify a conviction, the State must prove the facts sufficient for that purpose by evidence beyond a reasonable doubt; and that burden never shifts from the State. If there be reasonable doubt whether the defendant be guilty, he is to be declared not guilty.

"Reasonable doubt is a term often used, probably pretty well understood, but not easily defined. It is not a mere possible doubt, because everything relating to human affairs and depending on moral evidence is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all of the evidence, leaves the minds of the jurors in that condition that they cannot say that they feel an abiding conviction to a moral certainty of the truth of the charge. The evidence must establish the truth of the fact to a moral certainty, a certainty that convinces and directs the understanding and satisfies the reason and judgment of those who are bound to act conscientiously upon it.

"But if, after canvassing carefully the evidence, giving the accused the benefit of reasonable doubt, you are led to the conclusion that the defendant is guilty, you should so declare by your verdict.

"To make out a case of guilt, the State must establish by evidence beyond a reasonable doubt, first, the death of Charles A. Lindbergh, Jr., as a result of a felonious stroke inflicted on the first day of March, 1932, at the Township of East Amwell in this County.

"To support that charge, the State has produced evidence to the following effect. The fact of death seems to be proved, and admitted. At the time of his death the child was about twenty months old. On the evening of March 1st, 1932, the child was prepared for

bed by its mother and its nurse, Betty Gow, at the Lindbergh home in East Amwell Township in this County.

"The evidence is to the effect that the child was then in good health, a normal child except for a slight cold; that the mother and the nurse securely fixed the covering about the child, and about eight o'clock left the room and closed the window; that between that hour and ten o'clock the child was removed from the bed by some person and carried away, with the clothing in which it had been put to bed, which clothing has been described to you.

"There is evidence from which you may conclude, if you see fit, that the person who carried away the child entered the nursery or child's bedroom through the southeast window of the nursery room, by means of a ladder placed against the side of the house, under or near the window, and that this occurred shortly after nine o'clock at night.

"You will recall the evidence of Colonel Lindbergh to the effect that, as he was sitting in his living-room downstairs, he heard a strange noise about that time, the sound of wood on wood, like the striking of two pieces of wood together, like the boards of a crate falling together off of a stand or chair.

"Colonel Lindbergh testified that he could not tell at the time where the sound came from, and at the moment he did not think much about it. Later, at about ten o'clock, when the disappearance of the child became known, a strange and broken ladder was found, about sixty or seventy feet from the southeast window, with indications that it had been used in entering and leaving the window; and also there were the imprints of a man's shoe in the soft ground under or near the window.

"Miss Gow and Mrs. Whateley testified that later, about April 1st, 1932, they found the thumbguard, which Miss Gow had securely tied to the wrist of the child's sleeping suit when she put him to bed, that they found this thumbguard in the road leading from the Lindbergh home and on the Lindbergh property, with the knot still untied, from which you may possibly conclude that the sleeping suit was stripped off of the child at that place.

"There is also evidence to the effect that there was a dirty smudge on the bed clothes, and also on the floor of the nursery, leading from the window to the child's crib, and a ransom letter left on

the window sill. Later, the child's dead and decomposed body was found by a colored man in or hard by a shallow grave, not far from the road, a few miles away, in Mercer County.

"Dr. Mitchell, who performed the autopsy, testified that the child died of a fractured skull, the result of external violence, that the fracture extended from a point about an inch and a half posterior to the left, it extended forward probably three or four inches, it extended upward to one of the fontanels, it extended backward around the back of the head; in other words, it was a very extensive fracture.

"He further testified that, in his opinion, death occurred either instantaneously or within a very few minutes following the actual fractural occurrence. It is the contention of the State that the fracture described by Dr. Mitchell was inflicted upon the child when it was seized and carried out of the nursery window down the ladder and when the ladder broke.

"Now, the ladder has been placed in evidence. Its broken condition when found in the yard has been described to you.

"The fact that the child's body was found in Mercer County raises a presumption that the death occurred there; but that, of course, is a rebuttable presumption, and may be overcome by circumstantial evidence. In the present case the State contends that the uncontradicted evidence of Colonel Lindbergh and Dr. Mitchell, and other evidence, justifies the reasonable inference that the felonious stroke occurred in East Amwell Township in Hunterdon County, when the child was seized and carried out of the nursery window and down the ladder by the defendant, and that death was instantaneous; and from the evidence you may conclude, if you see fit, that the child was feloniously stricken on the 1st day of March, 1932, at the Township of East Amwell in this County, and died as a result of that stroke.

"Secondly, the State, in order to justify a verdict of guilty, must establish by the evidence, beyond a reasonable doubt, that the death was caused by the act of the defendant. The uncontradicted evidence is that the child was left by the mother and the nurse in the nursery, and the window was then closed.

"The evidence justifies the inference, if you see fit to draw it, that the window was maliciously opened and the child seized shortly

after nine o'clock that night. You will, of course, recall the evidence to the effect that almost immediately after it was discovered that the child had been taken from its crib in the nursery, there was found the ransom letter, demanding fifty thousand dollars, on the window sill, on which was placed a peculiar symbol and peculiar punch holes, and stating that directions would later be given for the delivery of the money. There is also evidence to the effect that a few days later Colonel Lindbergh received a second letter with like symbols, referring to the original ransom letter, and reiterating that directions for the delivery of the ransom money would be given. Meanwhile, Colonel Breckinridge, the friend and counselor of Colonel Lindbergh, had identified himself with the case in an endeavor to help his friend.

"There is evidence to the effect that a few days before March 9th, 1932, Dr. Condon had inserted an advertisement in the Bronx newspaper in effect offering to act as a go-between; that a few days later Dr. Condon received a letter in effect accepting his offer to act as a go-between, and enclosing a letter to Colonel Lindbergh, telling Dr. Condon that after he got the money to put words in the *New York American* that the money is ready, and the letter to Colonel Lindbergh said Condon may act as go-between, to give him the money, with directions as to the package; and how thereafter the baby was to be found.

"This letter to Colonel Lindbergh, as I recall the testimony, contained the peculiar symbols of the original ransom letter. The evidence is to the effect that immediately Dr. Condon drove to Hopewell and conferred with Colonel Lindbergh and with Colonel Breckinridge and, with their acquiescence, he inserted the advertisement, 'I accept; money is ready.'

"Dr. Condon testified that shortly thereafter he received a letter addressed to him, and delivered to him by a taxicab driver, giving him instructions how to proceed. The taxicab driver testified that he was given that letter by the defendant Hauptmann. Dr. Condon testified that, as a result of the directions contained in that letter and another letter, he first had, on March 12th, 1932, an interview in Woodlawn Cemetery with a man whom he identifies as the defendant, after talking with him for more than an hour. In that interview Dr. Condon said that the defendant, after having run

way from the gate, said, among other things, 'It is too dangerous. ight be twenty year or burn. Would I burn if the baby is dead? am only a go-between.'

"Dr. Condon also testified in effect that the defendant said that e baby was being held on a boat by others, that 'We are the right rties,' that the baby was held in the crib by safety pins, and he id that he would send the sleeping suit. Dr. Condon further testi- ed that later he received the sleeping suit, and other letters con- ining further directions, and finally a letter directing that the oney be ready by Saturday night and to put an advertisement in e newspaper, 'Everything O.K.' and that these directions were mplied with by him, Condon, with the acquiescence of Colonel indbergh and Colonel Breckinridge, the latter of whom had been close touch with Dr. Condon during practically the whole of the nsom negotiations.

"There is testimony to the effect that on this Saturday night, pril 2nd, 1932, there was delivered to Dr. Condon's residence a tter containing further instructions, and that as a result thereof n that evening Colonel Lindbergh, who was there waiting, drove r. Condon to the entrance to St. Raymond's Cemetery with the nsom money; that Dr. Condon alighted and contacted with a an, and after some talk and some delay handed him the package ntaining fifty thousand dollars of ransom money, thirty-five thou- nd dollars of which was in gold certificates, the numbers of hich bills had been taken.

"It is argued that Dr. Condon's testimony is inherently improb- ble and should be in part rejected by you, but you will observe hat his testimony is corroborated in large part by several witnesses whose credibility has not been impeached in any manner what- ever.

"Of course, if there is in the minds of the jury a reasonable doubt as to the truth of any testimony, such testimony should be ejected but, upon the whole, is there any doubt in your mind as o the reliability of Dr. Condon's testimony?

"There is evidence to the effect that after Dr. Condon alighted ith the money he was hailed by a man on the other side of the edge, to whom he finally delivered the ransom money.

"Colonel Lindbergh testified that the voice that hailed Condon

was that of the defendant. Dr. Condon testified that the man to whom he delivered the money was the defendant. This is denied by the defendant, and there is other testimony bearing upon the matter, and so that question becomes one for your determination.

"It is argued that Colonel Lindbergh could not have identified that voice, and that it is unlikely that the defendant would have talked with Condon. Well, those questions are for the determination of this jury, after having patiently listened to the evidence bearing upon those topics. If you find that the defendant was the man to whom the ransom money was delivered, as a result of the directions in the ransom notes, bearing symbols like those on the original ransom note, the question is pertinent: Was not the defendant the man who left the ransom note on the window sill of the nursery, and who took the child from its crib, after opening the closed window?

"It is argued by defendant's counsel that the kidnaping and murder was done by a gang, and not by the defendant, and that the defendant was in nowise concerned therein. The argument was to the effect that it was done by a gang, with the help or connivance of some one or more servants of the Lindbergh or Morrow households.

"Now do you believe that? Is there any evidence in this case whatsoever to support any such conclusion?

"A very important question in the case is, Did the defendant Hauptmann write the original ransom note found on the window sill, and the other ransom notes which followed? Numerous experts in handwriting have testified, after exhaustive examination of the ransom letters, and comparison with genuine writings of the defendant, that the defendant Hauptmann wrote every one of the ransom notes, and Mr. Osborn, Sr., said that that conclusion was irresistible, unanswerable and overwhelming. On the other hand, the defendant denies that he wrote them, and a handwriting expert, called by him, so testified. And so the fact becomes one for your determination. The weight of the evidence to prove genuineness of handwriting is wholly for the jury.

"As bearing upon the question whether or not the defendant was the man to whom was paid the ransom money in the cemetery, you will, of course, consider the evidence to the effect that the defendant

had written the address and telephone number of Dr. Condon on the door jamb of his closet; and if you believe that he did, although he now denies it, you may conclude that it throws light upon the question whether or not he was dealing with Dr. Condon.

"As I have said, the defendant denies that he was the man who was paid the ransom money, and there is other testimony which, if credible and believed by you, supports his statement.

"You will consider, as bearing upon that question, the fact that a record of the serial numbers of the ransom money was retained. Now, does it not appear that many of the ransom bills were traced to the possession of the defendant? Does it not appear that many thousands of dollars of ransom bills were found in his garage, hidden in the walls or under the floor, that others were found on his person when he was arrested, and others passed by him from time to time?

"You may also consider in this connection the evidence to the effect that shortly after the delivery of the ransom money the defendant began to purchase stocks in a much larger way and to spend money more freely than he had before.

"The defendant says that these ransom bills, monies, were left with him by one Fisch, a man now dead. Do you believe that?

"He says that he found them in a shoe box which had been reposing on the top shelf of his closet several months after the box had been left with him, and that he then, without telling anybody, secretly hid them, or most of them, in the garage, where they were found by the police. Do you believe his testimony that the money was left with him in a shoe box, and that it rested on the top shelf in his closet for several months?

"His wife, as I recall it, said that she never saw the box; and I do not recall that any witness excepting the defendant testified that they ever saw the shoe box there.

"As bearing upon the question whether or not the defendant was the man who took the child and left the ransom letter on the window sill, you should, of course, consider the evidence with respect to the ladder, if you find, as seems likely, that it was used in reaching the nursery. That the ladder was there seems to be unquestioned. If it was not there for the purpose of reaching that nursery window, for what purpose was it there? There is evidence from

which you may conclude, if you see fit, that the defendant built the ladder, although he denies it. Does not the evidence satisfy you that at least a part of the wood from which the ladder was built came out of the flooring of the attic of the defendant?

"In this connection you should consider the marks upon the wood, and give the evidence in respect thereto such weight as you think it entitled to, after a consideration of the credibility of the witnesses who testified in respect thereto.

"The defendant has offered himself as a witness in his own behalf, and the law makes him a competent witness, notwithstanding his very deep interest in the event of the trial. His evidence is not to be rejected merely for the reason that he is interested, but his interest in the result may be taken into consideration by you as an important circumstance upon the question of his credibility, the question whether he is telling the truth. You should also consider his testimony in view of its inherent probability or improbability, in the light of all the facts and circumstances as disclosed by the evidence. It appeared on the examination of the defendant here in court that he has been heretofore convicted of crime. That testimony may be given consideration by you as affecting his credit as a witness, and for that purpose only. The defendant denies that he was ever on the Lindbergh premises, denies that he was present at the time that the child was seized and carried away. He testifies that he was in New York at that time. He denies that he received the ransom money in the cemetery and says that he was at his home at that time on the evening of April 2nd, 1932.

"This mode of meeting a charge of crime is commonly called setting up an alibi. It is not looked upon with any disfavor in the law, for, whatever evidence tends to prove that the defendant was elsewhere at the time the crime was committed, at the same time tends to contradict the fact that the crime was committed by the defendant, whereas here, the presence of the defendant is essential to guilt, and if a reasonable doubt of guilt is raised, even by inconclusive evidence of an alibi, the defendant is entitled to the benefit of that doubt.

"As bearing upon the question of whether or not the defendant was present at the Lindbergh home on March 1st, 1932, you, of course, should consider the testimony of Mr. Hochmuth, along with

at of other witnesses. Mr. Hochmuth lives at or about the entance of the lane that goes up to the Lindbergh house.

"He testified that on the forenoon of that day, March 1st, 1932, saw the defendant at that point, driving rapidly from the direction of Hopewell; that he got in the ditch or dangerously near the itch; and that he had a ladder in the car, which car was a dirty reen. This testimony, if true, is highly significant. Do you think hat there is any reason, upon the whole, to doubt the truth of the ld man's testimony? May he not have well and easily remembered he circumstance, in view of the fact that that very night the child as carried away? The defendant, as I have said, denies that he as there or ever in the neighborhood; but, as bearing upon that uestion, you should consider the testimony of other witnesses, hat the defendant was seen in the neighborhood, not long before March 1st, 1932, and give it such weight as you think it is entitled o, after considering the credibility of the witnesses, as disclosed y the evidence.

"The defendant has produced some testimony besides his own, hat he was in New York on the day and evening of March 1st, 932, and some testimony besides his own, that on the evening of April 2nd, 1932, when the ransom money was delivered, he was at is home.

"This testimony produced by the defendant I shall not attempt o recite in greater detail. It should be given consideration by you and given such weight as you think it is entitled to, after considering it in connection with all of the other evidence in the case, bearing upon these questions and all other questions in the case, determination of which would tend to throw light upon the case.

"You should consider the fact, where it is the fact, that several of the witnesses have been convicted of crime, and to determine whether or not their credibility has been affected thereby; and where it appears that witnesses have made contradictory statements, you should consider that fact and determine their credibility as affected thereby.

"The evidence produced by the State is largely circumstantial in character. In order to justify the conviction of the defendant upon circumstantial evidence, it is necessary not only that all of the

circumstances concur to show that he committed the crime charged, but that they are inconsistent with any other rational conclusion.

"It is not sufficient that the circumstances proved coincide with, account for and therefore render probable the hypothesis that is sought to be established by the prosecution. They must exclude to a moral certainty every other hypothesis but the single one of guilt, and if they do not do this, the jury should find the defendant not guilty.

"And when the case against the defendant is made up wholly of a chain of circumstances, and there is reasonable doubt as to any fact the existence of which is essential to establish guilt, the defendant should be acquitted.

"But the crime of murder is not one which is always committed in the presence of witnesses, and if not so committed, it must be established by circumstantial evidence or not at all.

"And where the essential facts and circumstances are proved, which cannot be explained upon any other theory than that the defendant is guilty of the crime charged against him, such evidence should be considered as satisfactory and convincing as that of the most direct and positive character.

"If the State has not satisfied you by evidence beyond a reasonable doubt that the death of the child was caused by the act of the defendant, he must be acquitted.

"But if, on the other hand, the State has satisfied you beyond a reasonable doubt that the child's death was caused by the unlawful and criminal act of the defendant while seizing, stealing and carrying away the child and its clothing, of which unlawful act against the peace of the State, the probable consequences might be bloodshed, it is murder; and if murder, the degree thereof must then be determined.

"Now, our statute declares, among other things: Murder, which shall be committed in perpetrating, or attempting to perpetrate any burglary, shall be murder in the first degree.

"The State contends that the murder in this case was committed in perpetrating a burglary, and is murder in the first degree.

"I charge you that if murder was committed in perpetrating a burglary, it is murder in the first degree, without reference to the question whether such killing was wilful or unintentional; and I further charge you, as requested by the defendant, that in order to convict this defendant you must be satisfied, beyond a reasonable doubt, that the death of the child ensued from committing, or attempting to commit, burglary, at or about the time and place in question.

"Our statute relating to burglary says:

"Any person who shall, by night, wilfully or maliciously break and enter any dwelling house with intent to steal, commit a battery, shall be guilty of a high misdemeanor.

"If, therefore, the defendant by night wilfully and maliciously broke and entered the Lindbergh dwelling house with intent to steal the child and its clothing and to commit a battery on the child, he committed a burglary; and if the murder was committed in perpetrating a burglary, it is murder in the first degree.

"In the circumstances of this case you must be satisfied that the window was shut and that it was raised and opened by the defendant, and that he entered the house.

"There is evidence from which you may conclude, if you see fit, that the defendant feloniously, wilfully and maliciously broke and entered the dwelling house of Colonel Lindbergh in the night time with intent to steal the child and its clothing and commit a battery upon the child; that defendant brought the ladder to the Lindbergh house in East Amwell Township in this County, and placed it up against the house near the nursery window; that shortly after nine o'clock at night he ascended the ladder, maliciously and wilfully opened the closed window and entered the nursery room; that he seized the child and its clothing and carried it out of the nursery room window, and that the fracture of the skull which caused the child's death was inflicted when the child was seized by the defendant and carried out and down the ladder, and when the ladder broke.

"If you find that the murder was committed by the defendant in perpetrating a burglary, it is murder in the first degree, even though the killing was unintentional.

"If there is a reasonable doubt that the murder was committed by the defendant in perpetrating a burglary, he must be acquitted.

"I am requested to charge, and do charge, that each juror must

reach his own judgment after discussion of the facts with his fellow jurors.

"If you find the defendant guilty of murder in the first degree, you may, if you see fit, by your verdict, and as a part thereof, recommend imprisonment at hard labor for life. If you should return a verdict of murder in the first degree and nothing else, the punishment which would be inflicted on that verdict would be death.

"If you desire to return a verdict of murder in the first degree, coupled with imprisonment for life, then you must so put it in your verdict, because the law reads that every person convicted of murder in the first degree, his aiders, abettors, counselors and procurers, shall suffer death unless the jury shall, by their verdict and as a part thereof, upon and after consideration of all the evidence, recommend imprisonment at hard labor for life, in which case this and no greater punishment shall be imposed.[35]

"The Clerk may swear these constables to safely keep the jury until they have agreed upon their verdict." [36]

[35] The defense took many exceptions to Justice Trenchard's charge, which were granted.

[36] It is obvious that a judge who has participated in a trial and has earned the esteem of the jurors by a strictly fair and strikingly impartial conduct of the case, will have an overwhelming effect if, when he charges the jury at the end of the trial, he indicates a personal opinion of the guilt or innocence of the defendant. Some States, in a rather limited manner, give the judge the right to do so, while others, realizing the potentialities of the influence of the judge, strictly limit the scope of what the Court can say in his charge.

The present-day trend of Bar Associations investigating this phase of law indicates that the vast majority of them are in favor of granting an extreme degree of latitude to the Court in more freely expressing its opinion in regard to the testimony of witnesses, and thus actually indicating its personal belief.

The strictly legal question cannot be discussed here, but one has the right to state that, from a psychological point of view, in many cases it will result in the jury's rendering a verdict more dominated by the Court than by its own careful deliberation of the evidence presented.

In the trial of the State of New Jersey versus Bruno Richard Hauptmann, there has been a great deal of discussion pertaining to the charge delivered by Justice Trenchard. The discussion of its legality can be dispensed with, for the highest courts have sustained him. However, it does not require profound reasoning for those who heard him and for those who carefully read his charge to conclude that he was expressing opinions. This expression, associated with the esteemed position he held in the minds of the jurors, must have had a powerful effect, perhaps more than the individual jurors consciously realized, in arriving at a verdict.

The Verdict

The Court's charge completed, the jury filed out shortly after seven o'clock, and following almost eleven hours of deliberation, returned a verdict of "guilty of murder in the first degree." There was no recommendation of mercy. Justice Trenchard then informed the defendant of the jury's finding and announced the mandatory sentence of death "at a time and place and in a manner provided by law." He immediately set the date of execution for the week of March 18th, 1935. Court was immediately adjourned.

Hauptmann seemed broken as he walked from the courtroom. In his cell, for the first time during his incarceration in the Flemington jail, he broke down completely and cried. Efforts of the warden and counsel to brace him were of no avail.

VI. APPEALS, REPRIEVES AND THE EXECUTION

The pronouncement of the jury's verdict was but a prelude to the legal and political fray which ensued during the following year. The publicity attendant upon the final disposition of the case was, although inescapable, a major element in the overemphasis of the usual legal steps taken to set aside a verdict unfavorable to the defendant. There were many who, either ignorant or overlooking the usual time factor in a major criminal case, pointed out the slow-moving judicial apparatus which clogged the forthright conclusion of the case. It must be strongly emphasized here, contrary to the opinions of most whose information was gathered solely from the Press, that the lapse of time from Hauptmann's indictment to his electrocution was unusually short in comparison with the usual run of such cases. In New York State almost all criminals convicted of a crime have a much longer period to fight their conviction. An appeal to the higher courts is a matter of State-prescribed routine.

Decisions of Courts of Review

With Hauptmann's removal to the death house in Trenton on February 16th, his attorneys appealed to the New Jersey Court of Errors and Appeals and argued their case before the court on June 29th. Their main points were: Attorney General Wilentz' summation was prejudicial and warranted a reversal, as his theory of the death of the child in the summation was at variance with his original contention; the constitutional rights of the defendant under the Fourteenth Amendment were contravened; there is no statutory crime of burglary in New Jersey, and there was no evidence of entering to steal, and petit larceny is not a felony. They also attacked

the basis of the rule of law which made Hauptmann's conviction possible, namely, that he was guilty of murder during the commission of a felony in the crime of burglary. The attorneys declared in a supplementary brief that careful examination of the statutes revealed no "caption nor any marginal reference containing the word burglary." The burglary of which Hauptmann was accused involved the theft of the Lindbergh child's sleeping suit. On October 19th, 1935, in a unanimous decision, the New Jersey Court of Errors and Appeals upheld the Flemington verdict.

The United States Supreme Court was the scene of the next step which was taken on the basis that the defendant did not receive a fair and unprejudiced trial. Counsel maintained that Hauptmann's constitutional rights of life and liberty were jeopardized by "biased and exaggerated newspaper reports," a wave of hysteria "surrounding the jury," and the daily presence of Colonel Charles A. Lindbergh, which unduly influenced the jury. The petition declared that the Attorney General's summation was "an inflammatory summation far beyond the evidence." It stated that Justice Trenchard "portrayed emphatic approval" of the State's theories and witnesses and that his charge was "argumentative to a degree which made comments on evidence characteristically an act of advocacy." Defense attorneys maintained that the jury was not properly separated from the community and was subjected to expressions of popular opinion detrimental to the defendant. The Supreme Court was asked for an opportunity to take additional testimony, a request previously denied by the New Jersey Court of Errors and Appeals. On December 9th, 1935, the United States Supreme Court voted to uphold the original verdict.

About three days before the Supreme Court's decision was announced, Governor Harold G. Hoffman, despite vigorous criticism, came forth as champion of the man in the death house. Among the men engaged in aiding him were Ellis Parker, Chief of Burlington County Detectives, and Robert W. Hicks, a private detective. Hoffman's intention was to investigate the case, and he practically took charge, from then on, of the Hauptmann defense. Meanwhile, on December 13th, Justice Trenchard resentenced the defendant and announced his electrocution for the week of January 13th, 1936.

Many were at a loss to explain the Governor's belated interest in a case which he had had time to examine ever since the original verdict was given. Public indignation was great, but the Governor could not be deterred from his efforts. On December 23rd, the announcement in the Press of the Lindberghs' departure for London for an indefinite period of time, brought with it violent condemnations of the Governor's attitude, which was suspected in some quarters of having caused that departure.

After refusal of clemency from the New Jersey Court of Pardons on January 11th, Hauptmann's attorneys went before Judge W. Warren Davis of the United States Circuit Court of Appeals in Trenton, asking for a writ of *habeas corpus*. The application stated that the defendant's constitutional rights had been violated at the Flemington trial. Again reasons were presented similar to those which were set before the United States Supreme Court. Judge Davis denied the petition, on the ground that it would, "in effect, be over-ruling the Supreme Court of the United States." He also refused to grant a stay to give time for further appeal. The United States Supreme Court was now petitioned for an appeal from the ruling of Judge Davis, which was denied.

Governor Hoffman, meanwhile busily engaged with his "investigation," issued a thirty-day reprieve on January 16th, and let loose upon his opponents a fury of bitter criticism. With threats of impeachment imminent, he heroically stated that if "impeachment is the price that must be paid for daring to follow the dictates of my conscience I am ready for it." The Governor based the reprieve on his doubt that the murder of Charles A. Lindbergh, Jr., could have been committed by one man, he questioned "the truthfulness and mental competency of the chief witnesses for the State" against Hauptmann, and he was suspicious of the evidence which placed Hauptmann in the Hopewell nursery. He felt that "a good investigation of the Lindbergh case might be a healthy thing," and was "worried about the eagerness of some of our law-enforcement agencies to bring about the death of one man." This preoccupation of the Governor's with the dictates of his conscience led him into very strange paths, more often than not in the opposite direction from where he was supposed to be going.

After rumors of many investigations, Hoffman ordered Colonel

H. Norman Schwarzkopf, head of the New Jersey State Police, to reopen the investigation and file weekly reports. What these reports contained, the Governor never discussed, and he practically conducted his own private investigation and trial of several of the State's witnesses. Despite the assumption of his juridical attitude, his "conferences" were unproductive. Yet, persistent in his battle for the defendant, he clung desperately to the slightest rumor which offered a possible avenue of hope.

On March 30th, the Court of Pardons again refused the petition for clemency, and the Governor stated that he would not further intervene. The court ruled against Hauptmann's arguments for clemency on the grounds of an unfair trial and new evidence.

On March 29th, two alleged confessions of individuals supposed to have committed the crime were made public, and this served to further complicate an already involved case. Gaston B. Means, serving a fifteen-year term in the Federal Penitentiary at Leavenworth, Kansas, for having extorted from Mrs. McLean of Washington $104,000 for the alleged purpose of securing the return of the Lindbergh child, was now alleged to have said that he was hired by a relative of Mrs. Lindbergh's to climb a ladder into the Lindbergh home and steal the baby. This relative, according to him, was mentally unbalanced and wished to see the child killed. Means in his "confession" exonerated Hauptmann, but named two dead gangsters as his assistants. His "confession" was never taken seriously.

Another confession was ascribed to Paul H. Wendel, disbarred Trenton attorney who had once been under observation for four days in a hospital for the insane. No sooner was his "confession" announced than it was followed by his recantation, and the declaration that his purported confession had been obtained under duress. Wendel denied that he had had anything to do with the case, and in this denial was supported by Attorney General Wilentz and other State officials. Governor Hoffman denied any knowledge of the confession, although it had been obtained by Detective Parker, who also believed in Hauptmann's innocence. On the basis of his "confession," Wendel was held by the Mercer County Grand Jury for the crime of kidnaping the Lindbergh child.

Wendel's "confession" was still under investigation by the Mercer

County Grand Jury on March 31st, the night Hauptmann was sentenced to die. All was in readiness at the death house; official witnesses were present; Mrs. Hauptmann and the attorneys made their farewell visits. About a half-hour before the time set for the execution, the foreman of the Mercer County Grand Jury telephoned to Colonel Mark O. Kimberling, warden of the prison, to formally inform him that the Grand Jury was still in deliberation and considering the indictment of Wendel for the crime for which Hauptmann was to be executed. Colonel Kimberling, on his own responsibility, postponed the execution.

The Grand Jury continued to deliberate, and when on April 3rd they had not handed down an indictment against Wendel, Mrs. Hauptmann formally charged him with the murder of the Lindbergh child, which charge was not seriously considered by District Attorney Hauck.

State officials investigating Wendel's claim that he had been kidnaped and taken across State lines, brought out sufficient information to cast doubt upon the entire episode. All this time, Governor Hoffman stoutly maintained that he had not, either directly or indirectly, been a party to securing the confession. Criticisms against him, voiced by editorial comment throughout the country and by prominent individuals, were placing him in a most embarrassing situation, and for the first time since he undertook to be Hauptmann's champion, he remained quiet.

On the evening of April 3rd, at 8:47 P.M., all legal means for the prevention of the execution having been exhausted, Hauptmann was electrocuted.

The next morning an expectant world read of Hauptmann's execution and of his last few minutes of life. From the announcement of the kidnaping of Charles A. Lindbergh, Jr., until the conviction of Bruno Richard Hauptmann, the world had been frequently misled and puzzled by a marked difference in the reporting of events. This difference continued, even in the reporting of his execution by special observers who had no other task but to sit in an electrocution chamber for perhaps ten minutes and watch the actions of just one man.

Among the various descriptions were these: One said that Hauptmann's limbs did not tremble, that he stepped directly and unfalter-

ingly to the chair; another that he was fairly hustled to the chair; another that he had to be held up and that he stumbled during the procedure; still another that he was gently led. Were these discrepancies psychological proof that what each reporter described was not Hauptmann's reactions, but what he "thought" his own would be if the situation were reversed?

Attitude of Governor Harold G. Hoffman and Attorney General David T. Wilentz

The rôle played by Governor Hoffman and Attorney General Wilentz after the conviction of Bruno Richard Hauptmann may in the future be the subject of a great deal of discussion, perhaps of misunderstanding. During some calm period, it may even be the basis of investigation for a sane review of the activities of the Governor prior to the execution of Hauptmann.

Rumors and information gleaned from current newspaper articles allowed one to infer that the Governor was an opportunist and a politician and that, in spite of his Constitutional oath to uphold the laws of the Nation and the State as Governor, he had violated such oaths in becoming the champion of Hauptmann's cause. In so doing, they stated, he made a direct attack on the authorities whom the people of the State of New Jersey had invested with power to determine the innocence or guilt of an accused man. He was even charged with obstructing justice.

The reason for the conflicting activities of the Attorney General and the Governor were imputed by newspapers and people to political rivalry, and the facts did seem to give validity to this belief. Both men had spent their youth in the same locality, gone to the same school and been rivals in the extra-curricular activities for which the reward was prestige in the eyes of their fellow students. After graduation this same rivalry continued in their political affiliations. They had become active members of opposing political parties, and both had attained political leadership of their respective parties in the same community. Their interests and power broadened until they were both representing their parties in matters of State, and finally, during the trial of Hauptmann, these two "rivals"

held the two most important positions in the State of New Jersey, Hoffman as Governor and Wilentz as Attorney General.

Since both men were still young, people could not avoid the thought that success in a case involving international publicity would bring to either one or the other of them great advancement in his political career, and that the men themselves must to some extent be considering the Lindbergh case as a stepping-stone. Whether their attitude was so extremely personal as was believed, or prompted by motives of such personal gain, I am at this time not qualified to answer. I am, however, qualified to record what I actually know from personal conversation with these two men, as to what they did and why.

The legal steps following the conviction of Hauptmann having run their regular course, and his execution appearing to be legally certain, I felt it my duty, on the basis of my theory of the crime and my concept of the prisoner's personality, secretly to make an appeal for the commutation of Hauptmann's sentence to life imprisonment.

Twice before Hauptmann's electrocution, I had prolonged intimate conversations with the Governor. The first meeting took place in extreme secrecy in the home of Walter Winchell, newspaper columnist and radio commentator. I explained my views to the Governor, and asked him just what steps could be taken to commute the sentence of Hauptmann to life. I informed him that I had made arrangements whereby, if such commutation were granted, I could provide a sum of money which would allow for a psychiatric study of Hauptmann and the crime, no matter how long it would take. The Governor was very receptive, and displayed, in my opinion, unmistakable signs of sincerity when he told me that he felt the crime had not been completely solved. He expressed the opinion that the evidence had been tampered with, and that in the preparation and prosecution of the case, the State had withheld evidence which would have been to the advantage of Hauptmann. His objections, and his reasons for the personal review he was making of the case, can be summed up in these definite formulations:

1. He was certain, and intimated, that he had an affidavit to corroborate his opinion that Dr. Condon had not identified Hauptmann as "John" in the Greenwich Street police station, but "identified" him later as a result of intimidation by police authorities who said that, as Condon had been the only man to see Hauptmann, they would, if he did not identify him as "John," indict him as an accessory after the crime. Such intimidation, the Governor felt, was the deciding factor in Dr. Condon's "identification."

2. The Governor stated that he had definite proof that Agent Elmer L. Irey of the Intelligence Unit, Internal Revenue Service, and Colonel Breckinridge had not remained at Condon's home the night the $50,000 was paid to "John," but that they followed in an automobile and were in the immediate vicinity of St. Raymond's Cemetery when the transaction took place. He was unable to account for these two gentlemen's not testifying to that fact except on the basis that they could not corroborate all that Dr. Condon had stated.

3. The Federal inventory of all the articles obtained, or rather taken, from the Hauptmann home revealed the tabulations or the record of two letters which Hauptmann had received from the Fisch family which, for some reason, had not been presented at the trial. These letters, the Governor asserted, contained statements which, if presented at the trial, would have been to Hauptmann's advantage.

4. He personally did not trust the handwriting experts employed by the State, and refused to accept their testimony as evidence; he insisted that tricks of photography had been used.

5. He respected the integrity of Koehler, the wood expert, but refused to believe that any man could be so foolish as to use wood from his attic in the construction of the ladder. This allowed him to feel that the wood testimony was "planted evidence."

6. He believed that Hauptmann was in some way involved in the crime but that others were associated with him, and that if Hauptmann were executed the other individuals involved would never be apprehended.

7. He was of the opinion that the Board of Pardons in the State of New Jersey had been created with the specific purpose of allowing it to review the trial of a defendant from an extra-legal point of view after orthodox legal methods had been exhausted.

8. Because of that interpretation, he had visited Hauptmann in

his cell without informing the public, but he had informed his fellow-members of the Board of Pardons. Later, when he was specifically asked by a reporter if he had ever visited Hauptmann, he readily admitted it.

9. The newspapers, the Governor steadfastly maintained, garbled all statements he had made in explanation of his conduct.

10. He hoped to change the law governing the function of the Board of Pardons, and as part of that revision he hoped that two psychiatrists would be included in the personnel of the Board.

In answer to my question as to how Hauptmann's sentence could be commuted, he expressed the opinion that, owing to the involved legal technicalities in the State of New Jersey, the only method to pursue would be for himself, Attorney General Wilentz and myself to go before Justice Trenchard and petition him for the right to examine Hauptmann. He stated that if a confession could be obtained and if Wilentz would agree, he would summon the Board of Pardons to meet and we three would make a formal appeal to them for the commutation of Hauptmann's sentence.

I was skeptical of this plan, for it would mean examining Hauptmann at a time when he appeared to have been strongly supported by his wife and counsel in the belief that the State of New Jersey could not execute him. I was of the opinion that a confession could not be obtained as long as such false assurance was given him. I therefore suggested to the Governor that he tell Hauptmann's wife and counsel in no uncertain terms that unless Hauptmann made a complete confession, he would be electrocuted on the day specified.

A few days before the execution of Hauptmann, unknown to the public, I met Attorney General Wilentz and made the same plea to him that I had made to the Governor. The newspapers had indicated that the Attorney General and the Governor had now reached the point of an open break; that the Governor was going to pardon Hauptmann (which legal right he realized he did not have), and that the Attorney General would institute legal proceedings to prevent him from granting a reprieve and to force the electrocution of Hauptmann on the date set.

As a result of an intimate relationship which had grown up between Wilentz and me during his conduct of the trial, through

frequent discussions of the psychology involved in the proceedings, we had a mutual respect which allowed a free exchange of opinion. The Attorney General had always told me, and he now repeated, that he was opposed to capital punishment. He agreed that if a confession could be obtained a greater purpose would be served, and that society would gain very much more by the complete solution of this baffling crime than by the execution of a man without public knowledge of how and why the crime was committed. Although he stated that he would be severely criticized and condemned by the vast majority of the public, he agreed to go with Hoffman and myself to the Board of Pardons and ask for a commutation of Hauptmann's sentence. He asked me to inform the Governor of his views. He was very specific in stipulating that the step we proposed to take must have for its purpose a termination of the case, and was not to be used as a reprieve or in any way as a factor in prolonging legal procedure.

The Attorney General was somewhat incensed at the statements attributed to the Governor in the newspapers. He felt that he had prosecuted the State's case against Hauptmann objectively, in the routine connected with the duties of an Attorney General; now the Governor, in his personal investigation of the case, was not consulting him in regard to legal aspects of the procedure. The newspapers had conveyed the impression that the Governor had asked him for legal interpretations of the law, but the Attorney General insisted that in the main the Governor sought such information from one of his assistants, a "career man" who, because of long tenure of office and vast legal experience, was qualified to give it. This assistant had informed the Governor that he had no legal right for the steps he had instituted and the methods he had used in reprieving Hauptmann.

Wilentz expressed the opinion that the Governor would have benefited a great deal if he had made use of the knowledge which he, as prosecuting attorney, had accumulated during the prosecution of the case and the evaluation of all the evidence against Hauptmann. He stated sincerely that he himself would be the first man to investigate and run down any bit of information indicating that a State's witness had perjured himself or that some evidence had been tampered with. He had offered the Governor his co-

operation, but events caused him to infer that the Governor had rejected such offers with some display of hostility.

He gave as an example of the Governor's attitude an episode which took place about two days before this conference, when the Governor inspected the attic of Hauptmann's home with the express purpose of proving his preconceived conclusion that the rail in the ladder, which the State contended had once been part of the attic floor, was framed-up evidence. Just prior to the Governor's visit, private detectives for the defense had taken up residence in the Hauptmann home, and they had been conducting experiments of their own in the attempt to prove that the rail had never been a part of the attic flooring. The Governor was accompanied on his tour of inspection by wood experts and private detectives, and he brought with him the rail of the ladder as well as the piece of lumber which Lieutenant Bornmann had removed from the attic floor. These two pieces the State contended were at one time one piece of lumber.

The Attorney General, knowing the Governor's plan, arrived with his legal assistants and State detectives, including Lieutenant Bornmann. As many as could, crowded into the attic and the Governor placed the wood that Bornmann stated he had removed from the floor, in what was supposed to have been its original position. Bornmann had testified that when he removed this piece of wood from the floor, the nail heads were flush with the wood. The Governor now inserted the nails into their original holes and it was observed that they projected upward about one-quarter of an inch. The Governor interpreted this as definite proof that Bornmann had committed perjury and that he had not removed this particular piece of wood and these nails from the Hauptmann attic, and he immediately announced his conclusion that this evidence was "framed."

The scene must have been dramatic. Wilentz told me that for a moment, when he saw the nails projecting, he himself entertained the thought that this evidence had been framed-up. This transitory thought was immediately displaced by the realization that he had carefully evaluated all the evidence the police had presented to him, and he was certain of the truthfulness of the information.

The results of the experiment, nevertheless, did require further

investigation and explanation. The Governor, Wilentz and Bornmann went into a room. Newspaper men and even the official stenographers were excluded; the three men were closeted alone. The Governor flatly accused Bornmann of perjury and asked him to make a confession right there and then. Bornmann maintained that his testimony was truthful. The Governor's language was such that Wilentz was more amazed at the control exhibited by Bornmann in not striking the Governor than in any other phase of the discussion. Most men in such a situation, he said, would have engaged in actual physical combat had anyone used the language to them that the Governor hurled at Bornmann. The Attorney General, in his turn, calmly asked Bornmann to tell the truth. Bornmann repeated to him that every statement he had made in the trial was truthful, and Wilentz without hesitation believed him.

The Attorney General was by this time certain that something was wrong with the experiment, and all agreed to subject the nail holes in the joists to which the board had been nailed, to experimentation by impartial authorities. The nail holes were sawed open, and a small plug of wood was found in each hole. When these plugs of wood were removed, and the nails again inserted, they were found to be flush with the board. The Governor, who had been elated at the beginning of the experiment, in no way indicated that he realized the significance of plugs of wood having been inserted into the holes. Wilentz was amazed that in spite of this obvious proof that someone had tampered with the evidence, he should still maintain that it was the State which had offered perjured testimony.

The Attorney General in our conference repeatedly stated that his interest was a question of honor. He said he felt that he had reached the height of his political ambition, as Attorney General of his State, and he insisted that the prosecution of Hauptmann was a case to him, and not associated with any personal antagonism toward the defendant. I admired the Attorney General for the expression of his feelings and for his willingness to risk criticism in an attempt to commute Hauptmann's sentence.

Immediately after the termination of the conference with Wilentz, I phoned the Governor and we arranged for a meeting. A little after midnight in a New York hotel, the two of us met

unknown to anyone but Hoffman's personal secretary. We were alone, and in a most informal setting we freely and intimately expressed our opinions. Realizing that within a few days Hauptmann would be executed unless my plan could be made effective, I found myself somewhat emotional when I pleaded with the Governor to carry out the oiginal plan. He expressed complete confidence in the suggestions. At this point I elaborated my views, advising him strongly to stop giving false hopes to Hauptmann, his wife or his counsel on the question of reprieve. I told him that if he would inform the world through the newspapers of the honesty of his purpose as he had conveyed it to me, they would see him as I saw him, and sooner or later he would be judged fairly by the public. The only accusation that anyone could make against him would be that he was human and that, as Governor, he thought it his duty to evaluate the evidence against a man who was about to be electrocuted. I warned him of "last-minute confessions" made for the purpose of obtaining a reprieve for the man who was to be electrocuted. I gave him examples of such "confessions," and I cautioned him that he might be misled in such a case and so become an innocent party to it.

The Governor asked me to review the case of the police and the State against Hauptmann. He confessed he was in a dilemma. Hauptmann had sent repeated messages to him, "Bring Wilentz, bring Condon, bring all the witnesses. I am innocent." I explained to the Governor the meaning of omnipotence; also the occasional reaction, well known to psychiatrists, of a person about to be electrocuted for an atrocious crime, who presents the symptoms of complete amnesia for the criminal act he has committed. I did not know whether this applied here, but I felt it my duty to inform the Governor of this possible symptom. I charged him with unconsciously preventing a confession by his attitude of faith in Hauptmann. He countered that he had at no time deliberately done anything to instil such ideas in Hauptmann's mind but that others might have so interpreted his attitude and conveyed the idea to Hauptmann. In fact, he stated that a day before a time set for the electrocution of Hauptmann, he had gone to Hauptmann's wife and told her very definitely that he would not grant a reprieve and that her husband was going to die within twenty-four hours if he did not confess. She felt definitely when he left her, he said, that he was going to carry out his plan.

Again the Governor expressed the belief that Hauptmann was involved in the crime in some way, but he still adhered to the thoughts expressed in our first conference. Unlike the Attorney General, the Governor stated that if he felt certain Hauptmann was guilty as charged, he, as a father, would not hesitate to pull the switch himself.

We finally agreed that he was to let Hauptmann's wife and counsel know that electrocution was now certain and that he as Governor had no legal authority to interfere with it, and that if Hauptmann confessed, he was to call a meeting of the Board of Pardons and, accompanied by the Attorney General, appear before this Board and make the final plea for commutation of sentence. They were to tell Hauptmann that he was to make a complete confession. I made the suggestion that the appeal to Hauptmann, because of his personality, would necessarily have to be on the basis of asking him not to die, pleading with him to live; for if it were presented to him on the basis that he himself was asking for life, the confession could never be obtained. I remembered Hauptmann's emphatic "No" when Wilentz said to him, during cross-examination, "You wouldn't tell if they murdered you, would you?"

I further asked the Governor to give these people a message for Hauptmann that, while his confession would have to be complete and honest, if by any chance a relative were involved as an accessory after the fact in having guilty knowledge of the crime some time after it was committed, he could eliminate that in his confession, and it would still be considered honest and complete.

These conferences were not productive, for on the following day there was reported the alleged confession of Paul H. Wendel; and although I had warned the Governor of a possible "last-minute confession," he placed so much faith in this new development that he completely abandoned the plans we had agreed on.

The Governor had told me that Ellis Parker, a well-known detective of Burlington County, New Jersey, had been interested in the Lindbergh kidnaping case since 1932. Statements in the newspapers that Parker was in his employ were, he said, incorrect. However,

because of a long friendship and respect for the detective's abilities, he had discussed the "Hauptmann question" with him, and their deductions in many respects were similar.

A few days before the execution of Hauptmann, on the announcement that Paul H. Wendel had confessed to Ellis Parker the kidnaping of the Lindbergh child and that the detective had a signed confession from him, it appeared that the Governor had been aware of this confession for weeks before the public, the New Jersey State Police, or the Attorney General had been informed.

As soon as the "confession" was announced, the police and the Attorney General investigated and obtained a recantation. Wendel stated that while in New York City on February 14th, he was kidnaped by strange men and kept a prisoner in a home in Brooklyn, New York. While there, he was forced by threats of death and by the actual infliction of pain, to sign a confession that he had kidnaped the Lindbergh child. He was also promised large sums of money to sign his name to the confession, which completely exonerated Hauptmann.

This "confession," although recanted, did allow a Grand Jury to investigate, and because of its failure to complete its deliberations, Hauptmann was granted a two-day reprieve. The newspapers made much of the possible inference that the Governor had previous information of the contemplated action, and that the foreman of the Grand Jury, Allyne Freeman, who made the request, may have been acting in concert with Hoffman. Immediately after the execution of Hauptmann, investigation disclosed that the entire proceedings before the Grand Jury were irregular and that it had no legal authority for the investigation it had undertaken.

The Wendel accusations were then investigated by William F. X. Geoghan, District Attorney of Kings County, in view of the fact that Wendel charged he had been kept a prisoner in that County. He further stated that after he had remained in a Brooklyn home for a number of days, he had been removed to a private institution for the feeble-minded in New Jersey, and admitted there as a voluntary patient. While at this institution, he had conferences with Ellis Parker and his son. These two gentlemen then produced him as the kidnaper of the Lindbergh child a few days before Hauptmann was to be electrocuted.

Although Wendel could not locate the house used by his kidnapers, the District Attorney's office, aided by excellent detective work, succeeded in finding it. Thorough investigation by the District Attorney confirmed Wendel's accusations against his kidnapers, and the Grand Jury indicted five men for the kidnaping and torture of Paul H. Wendel. They were Harry Weiss of Brooklyn, Ellis H. Parker, Jr., son of the Burlington County detective, Harry Bleefeld of Brooklyn and his son, Murray Bleefeld of Trenton, and Martin Schlossman of Brooklyn. Harry Weiss confessed. When Ellis Parker, Jr., was sought by police authorities, he could not be located; his father stated that he did not know where he was.

At the time of this recording, certain rumors, unconfirmed but serious enough to warrant a complete investigation, are rife. They pertain to the possible significance of the implications that Ellis Parker and Governor Hoffman had knowledge of the Wendel kidnaping and its purpose at the time of its commission.

It is difficult to believe they will be implicated. The Governor, however, in a tactless statement, made perhaps under extreme emotion, has said that he may not grant the request of New York for the extradition of Ellis Parker, Jr. He intimated distrust of the actions and purposes of the District Attorney of Kings County. This attitude will be viewed with a great deal of suspicion by a public already suspicious of the Governor's activities on behalf of Hauptmann, and will require detailed explanation at some future date.

Epilogue

The death of Hauptmann left me with many questions which now can never be answered. A psychiatric study of an individual, an analysis of his personality, is a very long procedure and cannot as a rule be made without the coöperation of the person examined. The superficial psychiatric examinations which were made twice during his incarceration did not disclose the personality of the man. However, on the basis of the theoretical analysis I had made of the crime and its resultant synthetic picture of the kidnaper, I felt justified in attempting to find evidence in the life and personality of Hauptmann that would point to corroboration or rejection of such earlier formulations. To what extent did the actual man correspond to the synthetic?

The question of nationality was definitely established, and that he still thought in his native tongue was clearly demonstrated when, under cross-examination by Wilentz, Hauptmann indicated that he still thought in German and had to translate his thoughts into English. The occupation of Hauptmann was that of a carpenter, and the history of his industrial life revealed mechanical aptitude. His residence was in the northeast section of the area originally designated as the possible location of the kidnaper's home. The contention that the kidnaper had a feeling of omnipotence and believed that plans inaugurated and put into effect by him must of necessity be successful, was borne out in the persistency of Hauptmann's three attempts to enter the United States illegally. It seemed to find further corroboration in the statement made by Wilentz that when Hauptmann escaped from jail in a town in Germany, he later returned and left his prison clothes on the doorstep of the warden's home with a note expressing his personal compliments to that official.

The physical characteristics of Hauptmann were somewhat like

Lindbergh's and as postulated in the theoretical picture. In fact, as one observed these two characters every day in the courtroom, sitting in the front row, one thought of them as "the two boys."

That Hauptmann was an extremely methodical man was testified to in the direct and cross-examination which revealed a most complete and thorough double-entry record of expenses covering a number of years. That he was cautious and did not trust anyone but himself was demonstrated when, in his examination by Wilentz, he stated that everyone had "his secret" and that he would not even trust his wife.

These and many other examples indicating physical and mental traits in Hauptmann similar to the theoretical concept of the kidnaper, were not enough to allow scientifically for a definite conclusion. But the degree of corroboration was sufficient to justify further speculation as to his personality from the known situations and episodes of his life.

Did the fact that he came to the United States as a stowaway, ill-treated, that he was twice sent back and then finally entered the country, mean anything to him in the unconscious or conscious mind when he compared his lone flight from Europe to the United States with Lindbergh's successful solo flight from the United States to Europe? Did this persistency in any way bear a relationship to the persistency in the conduct of the ransom negotiations at a time when the child was dead?

The criminal history of Hauptmann disclosed that his first crime was robbing the home of the Mayor of a German town, in such a manner as to make use of a ladder in gaining entrance to the second floor. Was it coincidence that both the method employed in his first offense, and the fact that it was committed against the most important person in the community, were analogous to situations in the kidnaping case?

Another crime which could be subjected to a great deal of speculation regarding the personality of Hauptmann was the hold-up of two women wheeling their babies on the street, and the stealing of rolls and public food tickets from one of the perambulators. On this occasion he had with him an accomplice named Petzold. The official transcript of the incident states:

At first the women refused to stop and Petzold, using an army pistol hich was loaded and belonging to Hauptmann, pointed same at the omen and threatened them and both called to the women, "We'll oot! We're radicals." Hauptmann urged Petzold to shoot which tzold failed to carry out . . .

Observing Hauptmann during the whole period of the trial as e sat in the courtroom, I was struck with the absence of a display emotion. On a few occasions there were some signs indicative "feeling," but the trial was long and the occasions few. It was pecially noticeable that the very questions which might have been pected to arouse disturbance in him—whether he had been in opewell and whether he had kidnaped the child—were answered an impersonal and very objective manner. To the question, hether he had ever seen the Lindbergh baby, he tersely replied, ith complete absence of any sign of emotion, "Never saw it." his too in spite of the fact that it was his own lawyer who was uestioning him, and that the opportunity would have been given im to speak his mind more freely.

I wonder whether these questions pertaining to the actual comission of the crime would not in most cases have evoked an motional reaction of denial, with increased manifestation as the rson automatically elaborated, implying at least some degree of rrow, some sympathy for the death of the child. The emotion in ost cases would perhaps have reached a high point as the person ressed that it would have been impossible for him even to have ought of committing such a crime. This absence of "feeling tone," perhaps the complete control of emotion, in regard to the comission of the crime, was in itself sufficient to warrant interest in e personality of the man.

And it was made more remarkable by the fact that when questons involving his own abilities and powers were put to him, his action was markedly different, and he answered in a rather aggressive way. In particular, when asked if he had constructed the dder exhibited in the courtroom, he immediately defended himlf, and without even waiting to deny that he had made it, replied, I am a carpenter." No terse negative answer there! I find enough n that to make me ponder why, when asked direct questions about

the baby, his pride was not equally stung and his answer did not convey the same inference: "I naturally could not have done it."

An exceptionally theoretical thought, practical enough, however, to warrant one in pausing and speculating on the possible rôle the unconscious played, concerned the birth of Hauptmann's child and the naming of it Mannfried. At times, the decision of parents to have a child at a specific time, as well as the name of the child, is governed by unconscious as well as conscious factors. Was there an unconscious factor in conceiving the child in February, 1933, one year after his appearance in Hopewell? Did the name Mannfried to the unconscious mean the same as the two words "man freed," signifying that now, after such a lapse of time, there was no longer fear of detection? Did the birth of the child satisfy the unconscious that the destruction of one had been compensated by the birth of another? On another basis, the association of the name Mannfried with that of the great German aviator, Baron Manfred Albrecht von Richthofen, could allow for thinking in the realm of unconscious motivations. This latter thought is made more significant by the knowledge that he was reading the biography of von Richthofen as the trial started; for it is accepted that books are sometimes selected, and enjoyed very much more, because the reader can see himself in one of the characters.

In the analysis of the ransom notes made in 1932 and discussed in Paragraphs 12 and 13 of the memorandum to the Police Department, reference was made to the confusion evident in the writing of the word "boat." The capital letter "B" was used four times in one paragraph, and twice it looked like an "R." I thought this was the psychological manifestation that the writer had a great deal of conflict in the writing of these two letters and that each letter was of extreme importance to him. Associating this observation with the spelling of the word "boat" as "boad," I entertained the thought that the conflict was associated with the whereabouts of the child, and that when the writer stated the baby was on a boat, his unconscious was revealing that it was near a road. Also at other times in the ransom notes, "B" seemed to be a "difficult" letter to write. Throughout the notes, the orthography of the letter was inconsistent. I realized that this was very important, very significant, but could offer no adequate explanation.

In the light of the fact, now known, that Hauptmann, in an attempt to conceal his identity, had changed his signature from Bruno Richard Hauptmann to Richard Hauptmann when he came to the United States, was it possible that every time he wrote a "B" his unconscious shrank from revealing his first name and automatically wrote it as an "R" instead, the first letter of his new signature? Studies show that this is the outward sign of the unconscious mind affecting a compromise with the conscious.

A summation of the demeanor of Hauptmann in the courtroom during the many days of the trial is very difficult to portray adequately. Psychiatrists in their attempt to write for a lay group are never as successful in conveying the reactions of human beings as a keen observer whose vocation it is to write. I shall therefore quote Charles Dickens, with the added motive of proving that knowledge of human behavior may increase, but manifestations of it remain ever constant.

In 1856 William Palmer was tried in England for the crime of murder: he had poisoned his friend. Dickens, in commenting on the trial, the attitude of the prisoner, and the reaction of the public, wrote in *Household Words,* June 14th, 1856:

> The recent trial of the greatest villain [William Palmer] that ever stood in the Old Bailey dock has produced the usual descriptions inseparable from such occasions. The public has read from day to day of the murderer's complete self-possession, of his constant coolness, of his profound composure, of his perfect equanimity. Some describers have gone so far as to represent him occasionally rather amused than otherwise by the proceedings; and all the accounts that we have seen concur in more or less suggesting that there is something admirable, and difficult to reconcile with guilt, in the bearing so elaborately set forth.
>
> As whatever tends, however undesignedly, to insinuate this uneasy sense of incongruity into any mind, and to invest so abhorrent a ruffian with the slightest tinge of heroism, must be prejudicial to the general welfare, we revive the detestable subject with the hope of showing that there is nothing at all singular in such a deportment, but that it is always to be looked for and counted on in the case of a very wicked murderer. The blacker the guilt, the stronger the probability of its being thus carried off.
>
> In passing, we will express an opinion that Nature never writes

a bad hand. Her writing, as it may be read in the human countenance, is invariably legible, if we come at all trained to the reading of it. Some little weighing and comparing are necessary. It is not enough in turning our eyes on the demon in the dock, to say he has a fresh color, or a high head, or a bluff manner, or what not, and therefore he does not look like a murderer, and we are surprised and shaken. The physiognomy and conformation of the poisoner whose trial occasions these remarks were exactly in accordance with his deeds; and every guilty consciousness he had gone on storing up in his mind had set its mark upon him.

We proceed, within as short a compass as possible, to illustrate the position we have placed before our readers in the first paragraph of this paper.

The poisoner's demeanor was considered exceedingly remarkable, because of his composure under trial, and because of the confident expectation of acquittal which he professed to the last, under the influence of which he, at various times during his incarceration, referred to the plans he entertained for the future when he should be free again.

Can any one, reflecting on the matter for five minutes, suppose it possible—we do not say probable, but possible—that in the breast of this poisoner there were surviving, in the days of his trial, any lingering traces of sensibility, or any wrecked fragment of the quality which we call sentiment? Can the profoundest or the simplest man alive believe that in such a heart there could have been left, by that time, any touch of pity? An objection to die, and a special objection to be killed, no doubt he had; and with that objection very strong within him for divers very weighty reasons, he was—not quite composed. Distinctly not quite composed, but, on the contrary, very restless. At one time he was incessantly pulling on and pulling off his glove; at another time, his hand was constantly passing over and over his face; and the thing most instanced in proof of his composure, the perpetual writing and scattering about of little notes, which, as the verdict drew nearer and nearer, thickened from a sprinkling to a heavy shower, is in itself a proof of miserable restlessness. Beyond this emotion, which any lower animal would have, with an apprehension on it of a similar fate, what was to be expected from such a creature but insensibility? I poison my friend in his drink, and I poison my friend in his bed, and I poison my wife, and I poison her memory, and do you look to me, at the end of such a career as mine, for sensibility? I have not the power of it even in my own behalf, I have lost the manner of it, I don't know what it means. I stand contemptuously wondering at you people here when I see you moved by this affair. In the Devil's name, man, have you heard the evidence of that chambermaid, whose tea I should like to have the sweetening of? Did you hear her describe the agonies in which my friend expired? Do you know that it was my trade to be learned in poisons, and that I foresaw all that, and considered all that, and knew, when I stood at his bedside looking down upon his face turned to me for help on its road to the grave through the frightful gate then swinging on its hinges, that in so many hours or minutes all those horrors would infallibly ensue? Have you heard that, after my poisonings, I have had to face the circumstances out, with friends and enemies, doctors, undertakers, all sorts of men, and have uniformly done it; and do you wonder that I face it out with you? Why not? What right or reason can you have to expect anything else of me? Wonder! You might wonder, indeed, if you saw me moved here now before you. If I had any natural human feeling for my face to express, do you imagine that those medicines of my prescribing and administering would ever have been taken from my hand? Why, man, my demeanor at this bar is the natural companion of my crimes, and, if it were a little different from what it is, you might even begin reasonably to doubt whether I had ever committed them! . . .

It is surely time that people who are not in the habit of dissecting such appearances, but who are in the habit of reading about them, should be helped to the knowledge that in the worst examples they are the most to be expected and the least to be wondered at. That there is nothing in them but cruelty and insensibility. That they are seen, because the man is of a piece with his misdeeds; and that it is not likely that he ever could have committed the crimes for which he is to suffer if he had not this demeanor to present in standing publicly to answer for them.[1]

If Dickens were alive today I am certain he would have written up the trial of Hauptmann almost exactly as he did the trial of Palmer, and I would agree with him in his description, although we might differ as to its psychiatric implications.

In regard to the execution, there has been a great deal of discussion as to Hauptmann's fortitude in meeting it. He perhaps chose to die, in harmony with his make-up, maintaining his innocence,

[1] Reprinted in the *Sun*, February 20th, 1935: "The Cool Criminal."

thereby allowing friends and relatives to continue to believe in him. Perhaps it was easy for him to face death in that the unconscious desire for immortality was fulfilled in the life of his child Mannfried. Whether he suffered, no one will ever know: The law which states that execution shall be painless, was administered in the last month prior to his death in such a manner as to have made possible untold suffering.

The question whether Hauptmann was mentally ill will never be conclusively answered. There is no doubt that he was not insane according to the simple "yardstick" the law uses to measure such a complicated process. The legal determination—the ability to know the nature and quality of the act, the difference between right and wrong—makes nearly all people sane.

The details of the crime, the theory of the cause of the crime associated with the little that is known, psychiatrically, of his life, and my observations while he sat in the courtroom, were enough for me to consider him a case of dementia praecox.

A more profound, detailed, competent analysis of Hauptmann would have been a very great contribution to the inevitable realization, in the future, that "crime" is a symptom that the "criminal" is mentally ill.

THE END

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